

ARKANSAS CODE OF 1987 ANNOTATED

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ARKANSAS CODE OF 1987 ANNOTATED



VOLUME 4B 2007 Replacement TITLE 6: EDUCATION (CHAPTERS 18-49)

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Under the Direction and Supervision of the
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Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2007 Regular Session. Annotations are to the following sources:

Arkansas Supreme Court and Arkansas Court of Appeals Opinions through 2007 Ark. LEXIS 287 (June 28, 2007) and 2007 Ark. App. LEXIS 324 (June 27, 2007).

Federal Supplement through August 13, 2007.

Federal Reporter 3d Series through August 13, 2007.

United States Supreme Court Reports, through August 13, 2007.

Bankruptcy Reporter through August 13, 2007.

Arkansas Law Notes through the 2006 Edition.

Arkansas Law Review through Volume 59, p. 511.

University of Arkansas at Little Rock Law Review through Volume 28, p. 399.

ALR 6th through Volume 17, p. 757.

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User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Revision Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of the bound Volume 1 of the Code.

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 16. VOLUNTARY UNIVERSAL ACT ASSESSMENT PROGRAM ACT.
-

Cross References. Competency testing, § 6-15-401 et seq.
Free schools, Ark. Const., Art. 14, § 1.

RESEARCH REFERENCES

A.L.R. Liability of university, college, or other school for failure to protect student from crime. 1 A.L.R.4th 1099.

Mental or physical illness as basis of dismissal of student from school, college, or university. 17 A.L.R.4th 519.

Personal liability of teacher for personal injury or death of student. 34 A.L.R.4th 228.

Personal liability of public school executive or administrative officer in negligence action for personal injury or death of student. 35 A.L.R.4th 272.

Personal liability in negligence action of public school employee, other than teacher or executive or administrative officer, for personal injury or death of student. 35 A.L.R.4th 328.

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ration of kindergarten children.

6-18-101. Qualifications for valedictorian and salutatorian.

(a)(1) Only a student who has successfully completed a minimum core of high school courses shall be eligible for the honor of serving as a valedictorian or salutatorian of his or her graduating class.

(2) Only a student who has successfully completed the minimum core of high school courses with a minimum grade point established by the school district or its equivalent shall be eligible for distinction as an honor graduate of a senior class in a high school in this state.

(b) For the purpose of meeting the requirements of subsection (a) of this section, the student must complete the minimum core of courses recommended by the Arkansas Higher Education Coordinating Board and the State Board of Education pursuant to § 6-61-217 enlisted during the period of his or her enrollment in high school.

(c) Only a student who is enrolled in a course of study containing the minimum core of high school courses recommended by the coordinating board and the state board pursuant to § 6-61-217 shall be eligible for membership in the National Honor Society or any equivalent academic honor society.

(d) A student who is a member of any academic honor society on August 13, 1993, shall be exempt from the provisions of subsection (c) of this section.

(e)(1) A school district may establish an honor roll system to recognize or reward students for academic achievement.

(2) No school district shall be prohibited from identifying students who qualify for the honor roll or who are eligible to serve as valedictorian or salutatorian of the students' graduating class or who qualify for honor graduate status as provided under this section.

(3)(A) Any parent or student who does not want to have the student identified as an honor student or listed on the honor roll shall submit a written request to the principal of the school requesting that the student not be identified.

(B) The school and school district shall not identify any student who has submitted a written request under subdivision (e)(3)(A) of this section.

History. Acts 1991, No. 980, §§ 1, 2; 1993, No. 1117, § 1; 1997, No. 977, § 2; 2005, No. 390, § 1.

A.C.R.C. Notes. As amended by Acts 1993, No. 1117, § 1, subdivisions (a)(1) and (2) began "Beginning with the 1993-94 school year," and subsection (c) began "Beginning with the 1991-92 school year".

Former subsection (d) of this section,

which is deemed to be obsolete, provided: "The State Board of Education shall study the impact of abolishing the general program of studies track in high school and requiring all students thereafter to complete either the college preparatory or technical preparation program of study aimed at preparing youth to continue to learn either in the workplace or in some form of postsecondary institution and re-

port the findings to the Joint Interim Committee on Education by September 15, 1992.”

Amendments. The 2005 amendment added (e).

6-18-102. Legislative findings — School uniform policy.

(a) The General Assembly hereby finds and determines that the clothes and footwear worn by students in the public schools often preoccupy and distract students from their major purpose for being in school, that of becoming educated in math, science, English, history, and other subjects. The General Assembly further finds that student competition over clothes and footwear has, in several instances, led to violence and injuries during school hours; whereas, in those Arkansas schools that have adopted school uniforms, disparities in student socioeconomic levels are less obvious and disruptive incidents are less likely to occur.

(b)(1) The board of directors of a local school district shall create an advisory committee composed of parents and students for the purpose of considering whether the district should adopt a uniform dress code for students.

(2)(A) If the advisory committee recommends to the board of directors that a uniform dress code for students be adopted, if no uniform dress code is adopted by the school board of directors at least thirty (30) days prior to the filing deadline for the annual school election, and if not less than five percent (5%) of the qualified electors in the district the question of a uniform dress code voted upon, the board of directors shall refer the issue of a dress code to the qualified electors of the district during the 2000 annual school election.

(B) In addition to the 2000 annual election, the school board of directors may refer the issue of a dress code to the qualified electors of the district at any subsequent school election.

(3)(A) If a majority of the qualified electors of the district voting thereon at the election shall vote for the adoption of a school uniform policy, the board of directors shall prescribe appropriate school uniforms and implement the policy.

(B) If a majority of the qualified electors of the district voting thereon at the election vote against the adoption of a school uniform policy, the board of directors may only refer the question again to the qualified electors of the district after a minimum period of one (1) year.

(4)(A) After a school uniform policy has been implemented as a result of the 2000 annual school election required by this section for a minimum period of one (1) year, qualified electors of the district may by petition have the question of continuing the school uniform policy voted upon at the next school election.

(B) The petition shall be signed by not less than five percent (5%) of the qualified electors in the district.

(5)(A) Qualified electors of the district may at any time by petition have the question of implementing a uniform dress code voted upon at the next school election.

(B) The petition shall be signed by not less than five percent (5%) of the qualified electors in the district.

(c) Any school uniform policy adopted by a school district shall provide for individual students to make application to opt out of the uniform requirements with parental consent where no other reasonable alternative placement for the student exists.

(d) Any school district that has adopted and implemented a district policy to require a uniform dress code prior to the 2000 annual school election shall be exempt from the provisions of this section other than subsection (g).

(e) Nothing in this section shall be construed to limit the ability of a school district or a particular school within a district to adopt and implement a school uniform policy. Any school district may implement a school uniform policy without submitting the issue to the electors of the district.

(f) The Department of Education and education service cooperatives shall, when possible, assist public schools by providing information regarding uniform dress codes upon request from public school administrators.

(g) Within sixty (60) days after the 2000 annual school election, each school district shall submit a letter to the department setting forth the recommendation of the advisory committee, the action taken by the school board of directors regarding a uniform dress code as a result of the advisory committee's recommendation, and the results of any election regarding a uniform dress code.

(h) The department shall compile a report of the information received from each school district and submit the report to the Senate Committee on Education and the House Committee on Education prior to January 15, 2001.

History. Acts 1995, No. 1239, §§ 1-3; substituted "education service cooperatives" for "educational cooperatives" in (f).
1999, No. 1301, § 1; 2007, No. 617, § 11.

Amendments. The 2007 amendment

6-18-103. Selective service registration.

(a)(1) Each local school district and each adult education program shall provide a registration form at least thirty (30) days before the student's eighteenth birthday to any student who is enrolled in the district or the adult education program and who is required to register with the selective service system in accordance with the Military Selective Service Act, 50 U.S.C. Appx. § 451 et seq.

(2) The district and adult education program shall further provide appropriate instructions for returning completed registration forms to selective service personnel.

(b) The superintendent of the local school district and the director of the adult education program shall designate a staff person in each high school and at the adult education program site to distribute selective

service registration forms to students as provided in subsection (a) of this section.

(c) The Department of Education shall issue rules and regulations to ensure compliance with the provisions of this section.

History. Acts 1997, No. 229, § 1.

6-18-104. Placement.

(a) All students in grades kindergarten through twelve (K-12) of the public schools of this state shall be placed in an educational program that includes the minimum core curriculum established pursuant to § 6-61-217 unless a medical doctor and the parent or custodian of the student certifies that a medical condition exists that impairs cognitive functioning and that the student should not pursue the minimum core curriculum.

(b) For the purposes of this section, students in the class of 2002 shall meet all of these requirements and be better prepared to make career choices.

History. Acts 1997, No. 1195, § 1.

6-18-105. Skills and knowledge for preparation of kindergarten children.

(a)(1) By December 31, 2003, the Department of Education shall determine and prepare a list of the skills and knowledge that a child should have in order to be prepared to enter kindergarten.

(2) The list shall be prepared in a manner that will assist parents in preparing their children for kindergarten.

(b)(1) The list shall be available to parents on the Department of Education's website and from the Department of Education by mail if requested.

(2) The Department of Education shall make reasonable efforts to have the list of skills published in the Arkansas Happy Birthday Baby Book.

(c)(1) The Department of Human Services shall provide copies of the list to child care facilities licensed by the Division of Child Care and Early Childhood Education.

(2) By December 31, 2003, the Department of Human Services shall adopt rules and regulations requiring child care facilities licensed by the division each year to distribute the list to the parent of each three-year-old child, four-year-old child, and five-year-old child attending the child care facility.

(d) Nothing in this section shall be construed to require a child to have a certain level of skill or knowledge prior to enrolling in kindergarten.

History. Acts 2003, No. 825, § 1.

SUBCHAPTER 2 — ATTENDANCE

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- 6-18-201. Compulsory attendance — Exceptions.
- 6-18-202. Age and residence for attending public schools.
- 6-18-203. Attendance in district other than district of residence.
- 6-18-204. Attendance in another district — Conditions.
- 6-18-205. Attendance in another district — Liability.
- 6-18-206. Public school choice.
- 6-18-207. Minimum age for enrollment in public school.
- 6-18-208. Requirements for enrollment in public school — Exceptions.
- 6-18-209. Adoption of student attendance policies — Effect of excessive absences.
- 6-18-210. Definitions.
- 6-18-211. Mandatory attendance for students in grades nine through twelve.
- 6-18-212. [Repealed.]
- 6-18-213. Attendance records and reports generally.
- 6-18-214. Records of students leaving school without graduating.

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- 6-18-215. School enrollment census — Determining student drop-out rates.
- 6-18-216. [Repealed.]
- 6-18-217. Records to be kept by teachers.
- 6-18-218. [Repealed.]
- 6-18-219. False attendance reports.
- 6-18-220. Excused absences for participation in FFA, FHA, and 4-H programs — Equal treatment.
- 6-18-221. Cooperation of law enforcement agencies.
- 6-18-222. Penalty for excessive unexcused absences — Revocation of driving privilege.
- 6-18-223. Credit for college courses.
- 6-18-224. Early graduation.
- 6-18-225. Definition.
- 6-18-226. Community truancy boards — Members — Duties.
- 6-18-227. Arkansas Opportunity Public School Choice Act of 2004.
- 6-18-228. Attending classes and programs not offered by an assigned school.
- 6-18-229. Service as page for General Assembly.

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1973, No. 487, § 7: effective with the beginning of the 1973-74 school year.

Acts 1983, No. 822, § 3: Mar. 25, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that there are instances in which a person owns a single tract of land which is located in two school districts and the actual home of the owner is located on lands located in one district while the greatest portion of such lands is located in the other district; that in many such cases, the taxes paid by the landowner are substantially greater in the school district in which the home is not actually located and that fairness and equity demand that the children of such owner have the option to attend public school in either district regardless of where the home is actually located; that this Act is designed to permit such option and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being

necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 1029, § 4: Apr. 17, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 60 of the First Extraordinary Session of 1983 inadvertently repealed the law relating to the minimum age for enrollment in the first grade in the public schools; that it is urgent that such law be replaced as soon as possible; that this Act is designed to replace such law and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985 (1st Ex. Sess.), Nos. 40, 42, § 11: July 10, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy Fifth General Assembly meeting in Extraordinary Session that certain parents of school age children are providing educational programs for their children in home schools; that the State of Arkansas does not have adequate statutory provisions concerning the conduct of home schools; that the Arkansas Supreme Court has ruled that educating children at home does not meet the requirements for school attendance set forth in the compulsory attendance laws; that home schooling can be an appropriate educational program for certain children whose parents wish to educate them at home; that the law must be clarified to authorize the education of children in home schools subject to appropriate guidelines established by this Act and the State Board of Education. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 466, § 3: Emergency failed to pass.

Acts 1987, No. 528, § 3: Emergency failed to pass.

Acts 1987, No. 591, § 3: Apr. 4, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that constitutional challenges to the present form of Section 1 of Act 60 of

the First Extraordinary Session of 1983 (Ark. Stats. 80-1501) has caused considerable confusion among school administrators and school boards as to whether certain individual students may properly attend school in their districts; that additional legal challenges to the present form of Section 1 of said Act 60 of the First Extraordinary Session of 1983 are presently pending. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and welfare, shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 895, § 4: Mar. 22, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that some school districts are allowing students ineligible for attendance, to attend schools in the district to the detriment of the district in which the student is eligible to attend. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989 (3rd Ex. Sess.), No. 70, § 8: Nov. 16, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that parental involvement is a necessary part of a student's education, and the General Assembly feels very strongly that a student's parents, guardians or persons in loco parentis should be informed of excessive student absences and should bear certain responsibilities regarding their students' absences. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 214, § 5: Feb. 21, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that confusion exists as to who bears the responsibility of transporting students from their resident school districts to nonresident school districts; that this act is necessary to clear up any confusion; and that this act should be effective immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health

and safety shall be in full force and effect from and after its passage and approval.”

Acts 1991, No. 284, § 7: Feb. 28, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that the restriction on movement in the original version of the Choice Act exceeded the state’s need to restrict transfers in order to promote desegregation and was impeding the movement of students whose movement did not negatively affect desegregation; that less restriction was needed in some districts to ensure promotion and retention of quality desegregated education; that less restriction would promote desegregation in certain districts and allow more students choice of schools. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1991, No. 915, § 5: Mar. 29, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that it is essential to the effective and efficient operation of the Arkansas Department of Correction that the department transfer employees among the various units; that since employees of the department are commonly transferred from one unit to another, it is difficult for the department to employ the best qualified personnel unless the children of such personnel are permitted to continue to attend school in the district of choice; that this act is designed to permit this choice in order that the department can employ and retain the best qualified personnel at the respective units and therefore should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 1105, § 5: Apr. 13, 1993. Emergency clause provided: “It is hereby found and determined by the General Assembly that uncertainty exists as to what conditions will justify attendance by a student in a nonresident district and in order to clarify those conditions the General Assembly hereby finds that an emergency exists. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation

of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1994 (2nd Ex. Sess.), Nos. 30 and 31, § 9: Aug. 24, 1994. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly, meeting in Second Extraordinary Session, that under current law, sixteen and seventeen year olds can no longer enroll in adult education and attend a GED program, and the GED programs are more suitable than the public schools in meeting the educational needs of some sixteen and seventeen year olds. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1995, No. 572, § 5: Mar. 9, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that Arkansas Code 6-18-222 was intended to address excessive unexcused absences of public school students; that as written it applies to excessive absences; that the present law is unduly burdensome on school districts; and that this act relieves the burden and should go into effect as soon as possible in order to lighten the burden. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its

approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 275, § 5: Feb. 26, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is some disparity in practice among school districts as to whether students can be allowed to graduate early when they have completed all courses and credits required by the school district for graduation and that immediate implementation of this act is necessary for clarification prior to the end of the current school year and graduation time. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 570, § 7: Mar. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that immediate passage of this act is necessary to eliminate uncertainty for parents of children approaching the age for school enrollment and to alleviate hardship to local school districts in planning for the next school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: effective July 1, 2000.

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003, No. 1272, § 2: Apr. 11, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Constitution requires that all students be afforded an equal opportunity for an adequate education; that the General Assembly has chosen public school choice as one of the methods for providing equal opportunity, and that this act is immediately necessary to have school choice in place prior to the beginning to the 2003-2004 school year and before the end of the court stay. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 35, § 13: July 1, 2004. Effective date clause provided: "Unless otherwise provided herein, this subchapter shall become effective on July 1, 2004."

Acts 2003 (2nd Ex. Sess.), No. 35, § 14: Jan. 14, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) has declared the now current system of education to be unconstitutional because it is both inequitable and inadequate; that the Arkansas Supreme Court has set forth the test for a constitutional system to be one in which the state has an 'absolute duty' to provide and 'equal opportunity to an adequate education'; that the Arkansas Su-

preme Court has instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2199, § 2: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that a student's exposure to the legislative process is a important learning opportunity; that students are often asked to serve as pages during sessions of the General Assembly and those students should be allowed to serve without penalty for the absence; and that this act is immediately necessary to ensure that a student serving as a page during the 2005 legislative session is not penalized for his or her service. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1)

The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 985, § 2: Apr. 3, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the academic year begins in August, 2007; that curricula must be established and facilities and equipment in place before the academic year begins; that Arkansas students may miss the opportunity provided in this act if needed courses, facilities, and equipment are not in place before August, 2007; and that any delay in the effective date of this act may cause irreparable harm to the educational and employment opportunities of young people who hope to graduate early. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

A.L.R. Truancy as indicative of delinquency or incorrigibility justifying commitment of infant or juvenile. 5 A.L.R.4th 1211.

Conditions at school as excusing or justifying nonattendance. 9 A.L.R.4th 122.

Am. Jur. 68 Am. Jur. 2d, Schools, § 211 et seq.

Ark. L. Rev. Gitelman and McIvor, Domicile, Residence and Going to School in Arkansas, 37 Ark. L. Rev. 843.

C.J.S. 79 C.J.S., Schools, § 445 et seq.

6-18-201. Compulsory attendance — Exceptions.

(a) Under the penalty for noncompliance as shall be set by law, every parent, guardian, or other person residing within the State of Arkansas having custody or charge of any child ages five (5) through seventeen (17) on or before September 15 of that year shall enroll and send the child to a public, private, or parochial school or provide a home school for the child, as described in § 6-15-501 et seq., with the following exceptions:

(1)(A) Any parent, guardian, or other person residing within the state and having custody or charge of any child may elect for the child not to attend kindergarten if the child will not be age six (6) on September 15 of that particular school year.

(B)(i) If an election is made, the parent, guardian, or other person having custody or charge of the child must file a signed kindergarten waiver form with the local school district administrative office.

(ii) The form shall be prescribed by regulation of the Department of Education.

(C) Upon the filing of the kindergarten waiver form, the child shall not be required to attend kindergarten in that school year;

(2) Any child who has received a high school diploma or its equivalent as determined by the State Board of Education is not subject to the attendance requirement;

(3) Any child age sixteen (16) or above enrolled in a postsecondary vocational-technical institution, a community college, or a two-year or four-year institution of higher education is not subject to the attendance requirement;

(4)(A) Any child age sixteen (16) or above enrolled in an adult education program as provided for in subsection (b) of this section or in the Arkansas National Guard Youth Challenge Program is not subject to the attendance requirement.

(B) The requirements in subsection (b) of this section shall not apply to the Arkansas National Guard Youth Challenge Program; and

(5) Any child age sixteen (16) or above enrolled in an adult education program prior to June 13, 1994, under a waiver granted by the local school district who is currently attending the program is not subject to the attendance requirement.

(b) A local school district may grant a waiver of the attendance requirement to any student age sixteen (16) or seventeen (17) to enroll in an adult education program only after all of the following requirements have been met:

(1) The student makes formal application to the school district for a waiver to enroll in an adult education program;

(2)(A) After formal application and prior to any further action on the application, the student shall be administered either a test for adult basic education or a General Educational Development Practice Test under standardized testing conditions by a public school official designated by the school and shall score 8.5 grade level or above on the test for adult basic education or a minimum score of four hundred fifty (450) on each section and a minimum composite score of four hundred ninety (490) on the General Educational Development Practice Test.

(B) Provided, however, that the minimum test scores shall not be required of any student who is subject to the attendance requirement of this section but who was not enrolled in any school district during the previous school year;

(3) The student and the student's parents, guardians, or persons in loco parentis meet with the school counselor to discuss academic options open to the student;

(4) The school district determines that the student is a proper candidate for enrollment in adult education, contingent upon approval by the appropriate adult education program;

(5) The adult education program reviews the student's school and testing records and agrees to admit the student into the adult education program;

(6) The adult education program shall report attendance of all sixteen-year-old and seventeen-year-old enrollees to the sending school district on at least a monthly basis;

(7)(A) The adult education program shall require for continued enrollment a minimum of twenty (20) hours per week of class attendance and instruction.

(B) Provided, however, that a minimum of ten (10) hours shall be required for any student who is employed for thirty (30) hours or more each week;

(8) The student, the student's parents, guardians, or persons in loco parentis, and the administrative head of the adult education program agree in writing that the student will attend the requisite number of hours per week and maintain appropriate conduct as outlined in the local adult education program student handbook;

(9) In the event that a more appropriate assessment test or testing and assessment mechanism shall be developed to determine a reasonable level of competency for success at the adult education level, that test or mechanism shall be substituted, with the approval of the Adult Education Section of the Department of Workforce Education, for the tests required in subdivision (b)(2) of this section;

(10) In the event that a student does not attend class as mandated in this subsection or make reasonable progress toward the completion of the adult education curriculum, the student shall reenroll in a public school within five (5) days from the date the student is released from the adult education program; and

(11) The requirements in this subsection (b) shall not apply to students enrolled in a private, parochial, or home school in the state.

(c) Students age sixteen (16) or seventeen (17) enrolled in a private, parochial, or home school who desire to enroll in an adult education program shall meet the following requirements:

(1)(A) Students shall apply for enrollment to the adult education program.

(B) A student enrolled in a private or parochial school shall provide a letter from the principal or administrator of the private or parochial school to verify enrollment and shall score 8.5 grade level or above on the test for adult basic education or a minimum score of four hundred fifty (450) on each section and a minimum composite score of four hundred ninety (490) on the General Educational Development Practice Test.

(C) A student that is home schooled shall provide a notarized copy of the notice of intent to home school provided to the superintendent of the local school district as required by § 6-15-503;

(2) The student and the student's parents, guardians, or persons in loco parentis shall meet with the appropriate staff of the adult education program to discuss academic options open to the student;

(3) The adult education program administrators shall review the student's school and testing records prior to allowing admission to an adult education program;

(4)(A) Except as provided in subdivision (c)(4)(B) of this section, the adult education program shall require for continued enrollment a minimum of twenty (20) hours per week of class attendance and instruction.

(B) A minimum of ten (10) hours shall be required for any student who is employed for thirty (30) hours or more each week;

(5) The student, the student's parents, guardians, or persons in loco parentis, and the administrative head of the adult education program agree in writing that the student will attend the requisite number of hours per week and maintain appropriate conduct as outlined in the local adult education program student handbook;

(6) In the event that a student does not attend class as mandated in this subsection or make reasonable progress toward the completion of the adult education curriculum, the student shall reenroll in either a public, private, parochial, or home school within five (5) days from the date that the student is released from the adult education program; and

(7) If a home school student is accepted into the adult education program, the student's parent, guardian, or person standing in loco parentis shall send written notification to the local public school superintendent of his or her intent to participate in the adult education program.

(d) Students age sixteen (16) or above enrolled in a private, parochial, or home school who desire to take the General Educational Development Test shall meet the following requirements:

(1) A student shall not be required to obtain permission or approval from any official in a public school district before being allowed to take the test;

(2) A student enrolled in a private or parochial school shall provide a letter from the principal or administrator of the private or parochial school to verify enrollment;

(3) A student enrolled in a home school shall provide a notarized copy of the notice of intent to home school provided to the superintendent of the local school district as required by § 6-15-503; and

(4) A student enrolled in a private, parochial, or home school must achieve at least the minimum official General Educational Development Practice Test scores.

(e)(1) Nothing in this section shall prohibit a public school district from continuing with an adult education program to provide educational services to sixteen-year-olds and seventeen-year-olds enrolled in

public school if a contract is negotiated between the district and the adult education program that includes:

(A) Financial considerations for serving the students enrolled in the public school districts; and

(B) Accountability measures to ensure monitoring of student progress and attendance.

(2) Any contract for services by an adult education program for sixteen-year-olds and seventeen-year-olds shall be submitted to the Department of Workforce Education for final approval.

(3) Any student served by an adult education program under a contractual arrangement as described in this subsection shall not be counted in any enrollment numbers reported by the adult education programs for state or federal funding.

(f) Any child who will be six (6) years of age on or before October 1 of the school year of enrollment and who has not completed a state-accredited kindergarten program shall be evaluated by the district and may be placed in the first grade if the results of the evaluation justify placement in this first grade and the child's parent agrees with placement in the first grade. Otherwise, the child shall be placed in kindergarten.

History. Acts 1983 (Ex. Sess.), No. 60, § 3; 1985, No. 1029, § 2; 1985 (1st Ex. Sess.), No. 40, § 1; 1985 (1st Ex. Sess.), No. 42, § 1; A.S.A. 1947, §§ 80-1503, 80-1503.4; Acts 1987, No. 319, § 1; 1989, No. 598, § 1; 1991, No. 320, § 1; 1994 (2nd Ex. Sess.), No. 30, § 1; 1994 (2nd Ex. Sess.), No. 31, § 1; 1995, No. 837, §§ 1, 2; 1997, No. 1148, § 1; 1997, No. 1230, § 1; 1999, No. 570, § 1; 2001, No. 1514, § 1; 2001, No. 1535, § 1; 2001, No. 1659, § 1; 2003, No. 604, §§ 1-3.

A.C.R.C. Notes. Acts 1993, No. 1188, § 2 repealed the version of this section as

amended by Acts 1991, No. 292, § 1, a version irreconcilable with the section as amended by Acts 1991, No. 320, which has not been repealed.

Publisher's Notes. Identical Acts 1994 (2nd Ex. Sess.), Nos. 30 and 31, § 5 provided: "The Department of Vocational Education shall promulgate emergency rules and regulations to implement the provisions of this act relative to adult education within ten (10) days from and after its passage and approval."

Cross References. Home schools, § 6-15-501 et seq.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Education Law, High School

Graduation Requirements, 26 U. Ark. Little Rock L. Rev. 382.

CASE NOTES

Cited: Stephan v. Arkansas, 747 F. Supp. 1327 (E.D. Ark. 1990).

6-18-202. Age and residence for attending public schools.

(a) As used in this section:

(1) "Reside" means to be physically present and to maintain a permanent place of abode for an average of no less than four (4)

calendar days and nights per week for a primary purpose other than school attendance;

(2) "Resident" means a student whose parents, legal guardians, persons having legal, lawful control of the student under order of a court, or persons standing in loco parentis reside in the school district; and

(3) "Residential address" means the physical location where the student's parents, legal guardians, persons having legal, lawful control of the student under order of a court, or persons standing in loco parentis reside.

(b)(1) The public schools of any school district in this state shall be open and free through completion of the secondary program to all persons in this state between the ages of five (5) and twenty-one (21) years whose parents, legal guardians, or other persons having lawful control of the person under an order of a court reside within the school district and to all persons between those ages who have been legally transferred to the district for education purposes.

(2) For purposes of this section, a student may use the residential address of a legal guardian, person having legal, lawful control of the student under order of a court, or person standing in loco parentis only if the student resides at the same residential address and if the guardianship or other legal authority is not granted solely for educational needs or school attendance purposes.

(3) Any school district may require a parent, legal guardian, or other person in loco parentis who enrolls a student in a school district to sign a statement under oath attesting to his or her residential address or to provide other proof that a student is a resident of the school district as defined by this section.

(c) Any person eighteen (18) years of age or older may establish a residence separate and apart from his or her parents or guardians for school attendance purposes.

(d) In order for a person under eighteen (18) years of age to establish a residence for the purpose of attending the public schools separate and apart from his or her parents, guardians, or other persons having lawful control of him or her under an order of a court, the person must actually reside in the district for a primary purpose other than that of school attendance.

(e)(1) Any school district that admits for ten (10) school days or more a student that the school district knows or should have known is a resident of another school district not included in a tuition agreement or is not officially transferred to it shall be liable to the resident district of the student for an amount of money equal to the amount of state foundation funding per student.

(2) Notice to a school district by a complainant school district that a student is attending illegally in the school district begins the running of the ten-day time period.

(3) Causes of action arising under this subsection may be brought in a court of competent jurisdiction.

(4) The school district that admits the student shall have the burden of proof as to the student's residency.

(5)(A) Upon presentation of a court order or judgment finding that a school district has admitted for ten (10) school days or more a student the district should have known was a resident of another district, as set forth in subdivision (e)(1) of this section, the Department of Education will satisfy the defendant school district's liability by transferring to the complainant school district the appropriate amount of funds from state aid that the department would have distributed to the defendant school district.

(B) The transfer will be made from the next payment due to the district from the department after the order is received by the department.

(f) Any person who knowingly gives a false residential address for purposes of public school enrollment shall be guilty of a violation and subject to a fine not to exceed five hundred dollars (\$500).

(g) This section shall not be construed to restrict a student's ability to participate in a tuition agreement with a nonresident school district or to officially transfer to another school district pursuant to the Arkansas Public School Choice Act of 1989, § 6-18-206.

History. Acts 1987, No. 466, § 1; 1987, No. 591, § 1; 1989, No. 895, § 1; 1999, No. 391, § 9; 1999, No. 663, § 1; 2005, No. 1994, § 64; 2005, No. 2121, § 6.

Publisher's Notes. Former § 6-18-202, concerning age and residence of students for public schools, was repealed by Acts 1987, No. 466, § 2; 1987, No. 591, § 2. The former section was derived from Acts 1983 (Ex. Sess.), No. 60, § 1; A.S.A. 1947, § 80-1501.

Amendments. The 2005 amendment

by No. 1994 substituted "parentis" for "parenis" in (a)(2); substituted "student" for "sutdent" in (b)(3); and substituted "violation" for "misdemeanor" in (f).

The 2005 amendment by No. 2121, in (e)(1), substituted "amount of state foundation" for "state equalization" and deleted "the complainant district would have received or seven hundred fifty dollars (\$750) per year, whichever is greater" at the end.

CASE NOTES

ANALYSIS

Constitutionality.
Illegal Enrollment.
Residency.

Constitutionality.

School district's policy of excluding minor children from school unless a child has a parent or legal guardian living in the district was held to violate the equal protection and due process clauses. *Horton v. Marshall Pub. Sch.*, 769 F.2d 1323 (8th Cir. Ark. 1985) (decision under prior law).

Illegal Enrollment.

The proper remedy by one school district against another for illegal student

enrollment is by injunction, not by a suit for damages. *Newark Sch. Dist. v. Cord-Charlotte Sch. Dist.*, 278 Ark. 110, 644 S.W.2d 253 (1983) (decision under prior law).

Residency.

Whether children living with grandparents in school district, whose parents live outside the district, were permanent residents of the district and entitled to attend the schools of that district without payment of tuition was a question to properly be decided by the district court. *Spriggs v. Altheimer, Arkansas School Dist.*, 385 F.2d 254 (8th Cir. 1967) (decision under prior law).

Cited: Springdale Bd. of Educ. v. Bowman, 294 Ark. 66, 740 S.W.2d 909 (1987).

6-18-203. Attendance in district other than district of residence.

(a)(1) Except as provided in subdivision (a)(2) of this section, when any person owns a tract of land on which the person resides and which tract of land is located partially in one (1) school district and partially in another, the school-age children of that person shall attend school in the school district where the residence is located.

(2) When a person owned an undivided tract of land on which that person domiciled for ten (10) or more years prior to August 13, 2001, and which undivided tract of land is located partially in one school district and partially in another, the school-age children of that person, and those of his or her successors in title, shall be eligible to attend the school in either of the districts regardless of the location of the home on the property.

(b)(1) The children or wards of any person who is at least a half-time employee of a public school in one (1) school district in this state or is employed full time by an education service cooperative and is a resident of another school district in this state shall be entitled to be enrolled in and to attend school in either the district in which the parent or guardian resides, the district in which the parent or guardian is at least a half-time employee of a public school, or any district located in the county where the main office of the education service cooperative is located.

(2)(A) The General Assembly recognizes and embraces the responsibility of the state to promote desegregation of its schools and finds that this enactment affects such a limited class of students that desegregation will not be impeded. If, however, unforeseen circumstances result in a finding by a court that a school district is unlawfully segregated in whole or in part as a result of these provisions, the provisions in this subsection shall not apply to the children or wards of teachers in that district.

(B) Therefore, the provisions in this subsection shall not apply to the children or wards of those teachers who reside in school districts that may hereafter be found by a court to be unlawfully segregated if the finding is based upon segregation which was caused in whole or in part by the effects of these provisions.

(c) When any employee of the Department of Correction lives on department property or will live on department property as the result of a transfer from a unit of the department to another unit, the children or wards of the employee may complete their education in the school district in which they are enrolled at the time the parent or guardian is transferred.

(d) Any child and that child's sibling or siblings currently attending a nonresident school under subsection (a) of this section shall be allowed to complete all remaining school years at the nonresident district or may attend the resident district if he or she so chooses.

History. Acts 1983, No. 822, § 1; A.S.A. 1947, § 80-1568; Acts 1987, No. 624, § 1; 1991, No. 915, § 1; 1993, No. 1105, § 1; 1995, No. 726, § 1; 1997, No. 1304, § 1; 1999, No. 947, § 1; 2001, No. 1207, § 1; 2003, No. 144, § 1; 2007, No. 379, § 1; 2007, No. 617, § 12.

Amendments. The 2007 amendment by No. 379, in (c), substituted “lives on department property or will live on department property as the result of a trans-

fer from a unit” for “who lives on department property is transferred from one unit,” substituted “may complete their education in the school district” for “shall be entitled to complete the school term in the district,” and substituted “is transferred” for “was transferred.”

The 2007 amendment by No. 617 substituted “education service cooperative” for “educational cooperative” twice in (b)(1).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General As-

sembly, Education Law, School Attendance, 26 U. Ark. Little Rock L. Rev. 392.

CASE NOTES

ANALYSIS

Constitutionality.
In General.

Constitutionality.

Subsection (b) permitting children or wards to enroll in either their home school district or the district where their parents or guardians teach rests upon a rational basis and is not unconstitutional under Ark. Const., Art. 2, § 18, concerning equality in privileges and immunities. That which might facilitate a teacher’s transportation of his children, or enables them to be nearer to the teacher, or to each other, during school hours, may well be deemed useful in an alleviating problems which might otherwise distract a teacher, or necessitate his withdrawal from active teaching. *Love v. Hill*, 297 Ark. 96, 759 S.W.2d 550 (1988).

In General.

The making of a choice created by this section does not result in a “transfer” as contemplated by § 6-18-317; the prohibition of § 6-18-317 is against “legal transfers,” dealt with generally in former § 6-18-306, which provides for petitioning to attend school in a nonresident district, requiring the approval of both the sending and the receiving district. The legislature did not use the term “legal transfer” in subsection (b) of this section but referred to “enrolling” in the district where the parent teaches; there is no suggestion in the latter statute that the legislature intended this process to be comparable to “legal transfer;” therefore, these statutes are not irreconcilable. *Love v. Hill*, 297 Ark. 96, 759 S.W.2d 550 (1988).

Cited: *Davis v. Holt*, 304 Ark. 619, 804 S.W.2d 362 (1991).

6-18-204. Attendance in another district — Conditions.

(a) The title of this section shall be “An Act Making It Legal for a Student Living in One School District to Attend School in Another School District under Specified Conditions”.

(b) A student may attend school in another district under the following conditions:

(1) A student in grades nine through twelve (9-12) inclusive may attend school in another district for the purpose of enrolling for courses that will constitute not more than fifty percent (50%) of the classes taken by him or her during the school day;

(2) Such classes shall be limited to those that are not offered by the student's home district and are required by the student to meet his or her educational objectives;

(3) In order to qualify for such attendance, the student shall file a projected course of study with his or her principal or school counselor prior to enrollment in another school, and subsequent enrollment may be entered into only after it is determined that the desired courses cannot be taken in the home district;

(4) The resident district of a student taking advantage of the provisions of this section shall pay tuition to the district that the student attends in an amount not less than a proportion of the home district's state foundation funding per student equal to a ratio that the number of classes taken by a student outside his or her home district bears to the total number of classes taken by the student; and

(5)(A) A student wishing to take advantage of the provisions of this subsection must have the permission of the receiving district in order to enroll in that district.

(B) The amount of tuition shall be agreed upon by both districts prior to enrollment in the receiving district, except that if an agreement cannot be reached by the opening date of the receiving school, an appeal shall be made to the Assistant Director for Public School Finance and Administrative Support of the Department of Education within thirty (30) days from the opening date of school, and his or her decision shall be final.

(C) Under these conditions, the student may enroll at the beginning date of school in the receiving district.

(c)(1) A student may attend school in another district for the purposes of enrolling for alternative education programs, secondary area vocational centers, or community-based education programs for which the resident district has entered into a compact with another district.

(2) The resident district of a student taking advantage of the provisions of this subsection shall pay tuition to the district or education service cooperative that is the administrative agency for the compact program in the amount agreed upon in the compact or as required by state regulation.

(d) Attendance of a student enrolled in another school under the provisions of subsections (b) and (c) of this section shall be counted for state aid purposes by the student's resident district.

(e) Eligibility for participation in interschool activities by any such student shall be in accordance with regulations of the Arkansas Activities Association.

(f) The purpose of this section is not to be construed in any manner other than that of broadening the curriculum and program offerings that may be made available to students whose home districts do not offer subjects needed by such students to realize their educational objectives.

History. Acts 1983, No. 14, §§ 1-6; 1983, No. 149, §§ 1-6; A.S.A. 1947, §§ 80-1562 — 80-1567; Acts 1999, No. 1554, § 3; 2005, No. 2121, § 7.

Amendments. The 2005 amendment substituted “foundation” for “equalization” in (b)(4).

6-18-205. Attendance in another district — Liability.

(a)(1) Persons, and their present or future siblings, who attended during the 1982-1983 or 1983-1984 school year schools outside the boundaries of the school district in which the persons reside may continue attending such schools at the discretion of the receiving schools notwithstanding that the board of directors of the school districts in which such persons reside disapproves the out-of-district attendance.

(2) Such students shall be counted in the receiving district’s average daily membership and not in the average daily membership of the district of residence.

(3) Nothing in this section shall be construed as requiring any transfer of local funds to the receiving district.

(b)(1)(A) Any school district which admits for ten (10) school days or more a student the school district knows, or should have known, is a resident of another school district not included in a tuition agreement, or not officially transferred to it, shall be liable to the resident district of the student for an amount of money equal to the amount of state aid the resident district would have received or seven hundred fifty dollars (\$750) per year, whichever is greater.

(B) Either school district may petition the Department of Education to satisfy the liability by transferring that amount to the entitled school district from funds which the department would have distributed to the liable school district. Upon receipt of a petition, the department shall determine the amount of the liability and satisfy it by the transfer.

(C) If a substantial question arises as to residence, the State Board of Education may decline to assess the penalty.

(2) This subsection shall be deemed supplemental to and not a repeal of subsection (a) of this section.

History. Acts 1983 (Ex. Sess.), No. 111, § 1; A.S.A. 1947, § 80-1571; Acts 1987, No. 528, §§ 1, 2.

CASE NOTES

In General.

Where alleged constitutional violations were not currently causing racial segregation among the school districts, the trial

court correctly refused to order consolidation or an interdistrict magnet school plan. *Edgerson ex rel. Edgerson v. Clinton*, 86 F.3d 833 (8th Cir. 1996).

6-18-206. Public school choice.

(a)(1) This section may be referred to and cited as the "Arkansas Public School Choice Act of 1989".

(2) The General Assembly finds that the students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents or guardians are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some marginal students will stay in school and that other, more motivated students will find their full academic potential.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools since teachers, administrators, and school board members will have added incentive to satisfy the educational needs of the students who reside in the district.

(4) The General Assembly therefore finds that these benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any district beyond the one in which the student resides, provided that the transfer by this student would not adversely affect the desegregation of either district.

(5) A public school choice program is hereby established to enable any student to attend a school in a district in which the student does not reside, subject to the restrictions contained in this section.

(b)(1)(A) Before a student may attend a school in a nonresident district, the student's parent or guardian must submit an application on a form approved by the Department of Education to the nonresident district by submitting the application to the superintendent of the school district. This application must be postmarked not later than July 1 of the year in which the student would begin the fall semester at the nonresident district.

(B)(i) Within thirty (30) days of the receipt of an application from a nonresident student seeking admission under the terms of this section, the superintendent of the nonresident district shall notify the parent or guardian and the resident district in writing as to whether the student's application has been accepted or rejected.

(ii) If the application is rejected, the superintendent of the nonresident district must state in the notification letter the reason for rejection.

(iii) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(a) An absolute deadline for the student to enroll in the district, or the acceptance notification is null; and

(b) Any instructions for the renewal procedures established by the district.

(iv)(a) Any student who accepts a school choice transfer may return to his or her resident district during the course of the school year.

(b) If a transferred student returns to his or her resident district during the school year, the student's transfer is voided, and the student shall reapply for any future transfer.

(2)(A) The school board of directors of every public school district must adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building. Nothing in this section requires a school district to add teachers, staff, or classrooms or in any way to exceed the requirements and standards established by existing law. Standards shall include a statement that priority will be given to applications from siblings or stepsiblings residing in the same residence or household of students already attending the district by choice. Standards may not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings except that an expulsion from another district may be included pursuant to § 6-18-510.

(B)(i) Any student who applies for a transfer under this section and is denied a transfer by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

(ii) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after notice of rejection of the application under subdivision (b)(1)(B) of this section is received by the student.

(3) Each school district shall participate in public school choice consistent with this section.

(c) The responsibility for transportation of a student from the student's resident school district to a nonresident school district shall be borne by the student or the student's parents. The nonresident school district may enter into a written agreement with the student, the student's parents, or the resident school district to provide transportation to or from any place in the resident district to the nonresident district, or both.

(d)(1) A nonresident district shall accept credits toward graduation that were awarded by another district.

(2) The nonresident district shall award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(e) For purposes of determining a school district's state equalization aid, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(f) The provisions of this section and all student choice options created in this section are subject to the following limitations:

(1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that percentage

in the student's resident district except in the circumstances set forth in subdivisions (f)(2) and (3) of this section;

(2)(A) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and nonresident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department.

(B)(i) By the filing deadline each year, the department shall compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county.

(ii)(a) In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in *Little Rock School District v. Pulaski County Special School District* of allowing an overrepresentation or underrepresentation of black or white students of one-fourth ($\frac{1}{4}$) or twenty-five percent (25%) of the county's racial balance.

(b) In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one-fourth ($\frac{1}{4}$) or twenty-five percent (25%) of the county's racial balance;

(3) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district affected by the transfer does not have a critical mass of minority percentage in the student's race of more than ten percent (10%) of any single race;

(4) In any instance in which the provisions of this subsection would result in a conflict with a desegregation court order or a district's court-approved desegregation plan, the terms of the order or plan shall govern;

(5) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and

(6) The department shall monitor school districts for compliance with this section.

(g) The state board shall be authorized to resolve disputes arising under subsections (b)-(f) of this section.

(h) The superintendent of the district shall cause public announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

(i)(1) All superintendents of school districts shall report to the Equity Assistance Center on an annual basis the race, gender, and other

pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may withhold state aid from any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Equity Assistance Center so long as thirty (30) calendar days are given between the request for the information and the published deadline except when the request comes from a member or committee of the General Assembly.

(4) A copy of the report shall be provided to the Joint Interim Oversight Committee on Educational Reform.

(j)(1) The department shall develop a proposed set of rules as it determines is necessary or desirable to amend the provisions of this section.

(2) The department shall present the proposed rules in written form to the House Interim Committee on Education and the Senate Interim Committee on Education by October 1, 2006, for review and consideration by the committees for possible amendments to this section and to the Arkansas Public School Choice Program by the Eighty-sixth General Assembly.

History. Acts 1989, No. 609, §§ 1-13; 1991, No. 214, § 1; 1991, No. 284, §§ 1-3; 1993, No. 655, § 1; 1995, No. 109, § 1; 1997, No. 112, § 10; 1999, No. 391, § 10; 1999, No. 1241, § 1; 2001, No. 1788, § 1; 2003, No. 1272, § 1; 2003 (2nd Ex. Sess.), No. 110, § 1; 2005, No. 2148, § 1; 2007, No. 552, § 1.

A.C.R.C. Notes. Section 6-15-805, establishing the Joint Interim Oversight Subcommittee on Educational Reform, expired by its own terms on July 1, 2000.

Publisher's Notes. Former § 6-18-206, concerning attendance contracts between school districts, was repealed by

Acts 1987, No. 762, § 6. The section was derived from Acts 1959, No. 275, §§ 1, 2; A.S.A. 1947, §§ 80-1518.1, 80-1518.2.

The case of *Little Rock School District v. Pulaski County Special School District*, referred to in (f)(3), is reported at 660 F. Supp. 624 (E.D. Ark. 1987), *aff'd* in part, vacated in part, *Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist.*, 839 F.2d 1296 (8th Cir. Ark. 1988).

Amendments. The 2005 amendment added (j).

The 2007 amendment added (b)(1)(iv); and substituted "affected by the transfer" for "within the county" in (f)(3).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Public School Choice, 26 U. Ark. Little Rock L. Rev. 384.

6-18-207. Minimum age for enrollment in public school.

(a)(1)(A) For the 2009-2010 school year, students may enter kindergarten in the public schools of this state if they will attain the age of five (5) years on or before September 1, 2009.

(B) For the 2010-2011 school year, students may enter kindergarten in the public schools of this state if they will attain the age of five (5) years on or before August 15, 2010.

(C) For the 2011-2012 school year and afterwards, students may enter kindergarten in the public schools of this state if they will attain the age of five (5) years on or before August 1 of the year in which they are seeking initial enrollment.

(2) Any student who has been enrolled in a state-accredited or state-approved kindergarten program in another state for at least sixty (60) days, who will become five (5) years old during the year in which he or she is enrolled in kindergarten, and who meets the basic residency requirement for school attendance may be enrolled in kindergarten upon written request to the school district.

(b)(1) Any child may enter the first grade in the public schools of this state if the child will attain the age of six (6) years during the school year in which the child is seeking enrollment and the child has successfully completed a kindergarten program in a public school in this state.

(2) Any child who will be six (6) years of age on or before October 1 of the school year of enrollment and who has not completed a state-accredited kindergarten program shall be enrolled pursuant to § 6-18-201(f).

(3) Any child who has been enrolled in the first grade in a state-accredited or state-approved elementary school in another state for a period of at least sixty (60) days, who will become six (6) years of age during the school year in which the child is enrolled in grade one (1), and who meets the basic residency requirement for school attendance may be enrolled in the first grade.

History. Acts 1983 (Ex. Sess.), No. 60, § 2; 1985, No. 1029, § 1; A.S.A. 1947, § 80-1501.2; Acts 1989, No. 598, § 2; 1997, No. 1230, § 2; 1999, No. 570, § 2; 2001, No. 1535, § 2; 2007, No. 462, § 1.

Amendments. The 2007 amendment added the (a)(1)(A) designation; in (a)(1)(A), added "For the 2009-2010 school

year" at the beginning and substituted "September 1, 2009" for "September 15"; added (a)(1)(B) and (a)(1)(C); and made related changes.

Cross References. Kindergarten, § 6-16-201 et seq.

Maximum age of person admitted to public school, § 6-16-308.

6-18-208. Requirements for enrollment in public school — Exceptions.

(a) Prior to a child's admission to an Arkansas public school, a school district shall request the parent, guardian, or other responsible person to furnish the child's social security number and shall inform the parent, guardian, or other responsible person that, in the alternative, they may request that the school district assign the child a nine-digit number designated by the Department of Education.

(b) Prior to a child's admission to an Arkansas public school, the parent, guardian, or responsible person shall provide the school district with one (1) of the following documents indicating the child's age:

- (1) A birth certificate;
- (2) A statement by the local registrar or a county recorder certifying the child's date of birth;
- (3) An attested baptismal certificate;
- (4) A passport;
- (5) An affidavit of the date and place of birth by the child's parent or guardian;
- (6) Previous school records; or
- (7) A United States military identification.

(c) Prior to a child's admission to an Arkansas public school, the parent, guardian, or other responsible person shall indicate on school registration forms whether the child has been expelled from school in any other school district or is a party to an expulsion proceeding.

(d)(1) Beginning with the 2005-2006 school year, no school or school district shall:

(A) Use, display, release, or print a student's social security number or any part of the number on any report, identification card, identification badge, or any document that will be made available or released to the public, to a student, or to a student's parent or guardian without the express written consent of the student's parent if the student is a minor or of the student if the student is eighteen (18) years of age or older; or

(B) Make a student's social security number available by reading the magnetic strip or other encoded information on the student's identification card.

(2) This section shall not apply to educational records that are transferred to or between the department, other public schools or school districts, or other governmental agencies as allowed or required by federal law, state law, or State Board of Education rule.

History. Acts 1959, No. 139, § 1; A.S.A. 1947, § 80-1501.1; Acts 1991, No. 838, § 1; 1993, No. 363, § 1; 1995, No. 574, § 1; 2003, No. 63, § 1; 2005, No. 246, § 1.

Amendments. The 2005 amendment added (d).

6-18-209. Adoption of student attendance policies — Effect of excessive absences.

(a) The board of directors of each school district in this state shall adopt student attendance policies.

(b) Each school district shall, as a part of its six-year educational plan, develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.

(c) A student attendance policy may include excessive unexcused absences as a mandatory basis for denial of promotion or graduation.

History. Acts 1983 (Ex. Sess.), No. 60, § 4; 1985, No. 1069, § 1; A.S.A. 1947, § 80-1504.

6-18-210. Definitions.

As used in this section and § 6-18-211:

(1) “Financial hardships” means harm or suffering caused by a student’s inability to obtain or provide basic life necessities of food, clothing, and shelter for the student or the student’s family; and

(2) “Planned instructional time” means regularly scheduled class periods offering organized teaching of a Department of Education-sanctioned class curriculum.

History. Acts 2003, No. 675, § 1.

section was derived from Acts 1931, No.

Publisher’s Notes. Former § 6-18-210, concerning attendance officers, was repealed by Acts 1993, No. 475, § 15. The

169, § 159; Pope’s Dig., §§ 3585, 11601; A.S.A. 1947, § 80-1511.

6-18-211. Mandatory attendance for students in grades nine through twelve.

(a) Beginning with the 2004-2005 school year, students in grades nine through twelve (9-12) shall be required to schedule and attend a full school day.

(b)(1) No later than January 30, 2004, the State Board of Education shall promulgate regulations that require students in grades nine through twelve (9-12) to enroll in no less than three hundred fifty (350) minutes of planned instructional time each day as a requirement for graduation.

(2)(A) The regulations shall allow local school boards of directors to develop policies to allow:

(i) Students to be assigned to no more than one (1) class period each day for a study hall period that the student shall be required to attend and participate in for a full class period of self-study or organized tutoring in the school building; and

(ii)(a) No more than one (1) class period each day for organized and scheduled student extracurricular classes to be included as planned instructional time.

(b) If the extracurricular class is related to a seasonal activity, the class must continue to meet after the season ends to be counted toward the requirement of planned instructional time.

(B) The regulations shall allow local school boards of directors to develop policies for granting waivers to students who would experience proven financial hardships if required to attend a full school day.

(c) Enrollment and attendance in vocational-educational training courses, college courses, school work programs, and other Department of Education-sanctioned educational programs may be used to satisfy the requirements of this section even if the programs are not located at the public schools.

(d) Nothing in this section and § 6-18-210:

(1) Precludes a student who has met all graduation requirements from graduating early; or

(2) Requires a student who has graduated early from high school to continue to attend school.

History. Acts 2003, No. 675, § 2; 2007, No. 985, § 1.

Publisher's Notes. Former § 6-18-211, concerning reporting truancy or incorrigibility to the court, was repealed by Acts 1991, No. 468, § 1. The section was

derived from Acts 1931, No. 169, § 160; Pope's Dig., §§ 3586, 11602; A.S.A. 1947, § 80-1512.

Amendments. The 2007 amendment added (d)(2) and made related changes.

6-18-212. [Repealed.]

Publisher's Notes. This section, concerning grand jury investigations, was repealed by Acts 1993, No. 475, § 16. The

section was derived from Acts 1931, No. 169, § 163; Pope's Dig., §§ 3589, 11605; A.S.A. 1947, § 80-1515.

6-18-213. Attendance records and reports generally.

(a)(1) A record of pupil attendance shall be kept by each school district of the state in a format prescribed by the Department of Education.

(2) This basic record, showing the daily attendance and absence of each student for the school year, shall be kept by a teacher or other officially designated person who visually notes the physical presence or absence of each student on a daily basis.

(3) The attendance for resident and nonresident students shall be kept separately.

(4) The basic attendance records of each district shall be kept on file in electronic form by the district for a period of three (3) years and shall be audited as required by the State Board of Education.

(b)(1) The official reporting period for attendance shall be quarterly with the actual number of days counted in each period to be no less than forty (40) nor more than fifty (50).

(2) A waiver of this subsection may be granted by the department upon petition by a school district.

(c) This attendance record in each of the school districts of the state as reflected by the combined reports for the first three (3) quarters of the school year shall be the official data used in computing certain types of state aid for the following year.

(d)(1) Any district that fails to file by April 15 of any given year reports for the first three (3) quarters of that year, as required by subsection (c) of this section, shall have the remainder of its state foundation funding withheld and placed in escrow, to be released when the reports are received.

(2) A waiver of this subsection may be granted by the department upon petition by a school district.

(e) The department may analyze and inspect the attendance records of any school, school district, or open-enrollment public charter school to verify that a school, school district, or open-enrollment public charter school is correctly and accurately reporting attendance.

(f)(1) Except for those circumstances otherwise allowed by rule, any student who is absent from daily attendance for more than ten (10) consecutive school days shall be dismissed or dropped from the attendance records of the school, school district, or open-enrollment public charter school.

(2) Any student who fails to attend school by the tenth regular school day of the semester shall be retroactively dropped from the attendance records from the first day of the school semester.

(g) The state board shall promulgate rules, regulations, and procedures as may be required to implement the intent of this section.

History. Acts 1973, No. 487, §§ 1-6, 8; A.S.A. 1947, §§ 80-1551 — 80-1557; Acts 1989, No. 466, § 1; 1997, No. 733, § 1; 1999, No. 391, § 11; 1999, No. 1078, § 71; 2001, No. 1220, § 3; 2003, No. 553, § 1; 2005, No. 2121, § 8.

Amendments. The 2005 amendment substituted “required” for “provided by a

policy approved” in (a)(4); substituted “foundation funding withheld” for “equalization aid withheld, beginning with the April allotment” in (d)(1); added present (e) and (f); and redesignated former (e) as present (g).

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-18-214. Records of students leaving school without graduating.

(a) In addition to the records required by § 6-18-213, a record of students who have left school without having completed requirements for high school graduation shall be kept by each school district of the state on forms provided by the Department of Education or on forms approved by the Commissioner of Education as being suitable for the purpose of showing data on students who leave school without having completed the requirements for high school graduation.

(b) Such records shall identify the student by name and last known address. The records shall show, as to each student in grades seven through twelve (7-12) inclusive who had been reported in attendance by the school district for the previous attendance reporting period but who is no longer reported as attending school in that school district, the following information:

- (1) School site;
- (2) Date of birth;
- (3) Gender;
- (4) Racial or ethnic identification;
- (5) Educational handicapping condition, if any; and
- (6)(A) Reason for leaving.

(B) Reporting forms shall include but not be limited to the following reasons for leaving school:

- (1) Enrollment in another accredited public, private, or parochial school program leading to a high school diploma;

- (2) Failing grades;
- (3) Lack of interest;
- (4) Conflict with school;
- (5) Suspension or expulsion;
- (6) Economic hardship;
- (7) Pregnancy or marriage;
- (8) Peer conflict;
- (9) Incarceration;
- (10) Alternative plans other than those listed; or
- (11) None of the reasons listed herein is known to apply.

(c) To the extent possible, the school district shall determine the reasons for a student's leaving school from the student or from the student's parent, guardian, or other responsible person and shall inform the student that any information obtained will be shared with the department and other governmental agencies.

(d)(1)(A) Each school district in the state shall file a report on students leaving school without having completed the requirements for high school graduation as a part of its official attendance report filed with the department for each quarterly period.

(B) The school shall keep the data on file as part of the basic attendance records in the district for a period of three (3) years.

(2) Each school district may provide the regional selective service agency with information on students leaving school without having graduated, including each student's name, date of birth, and last known address.

(e) The State Board of Education shall develop such forms and shall promulgate such rules, regulations, and procedures as may be required to implement the intent of this section.

(f) To provide for more accurate, comparable, and timely dropout and school-leaver statistics and to facilitate inclusion in the national education data system, the forms, rules, regulations, and procedures shall be developed and implemented in such a way as to allow for conformity with existing or revised collection processes for the data by the National Center for Education Statistics of the United States Department of Education.

History. Acts 1983 (Ex. Sess.), No. 58, A.S.A. 1947, §§ 80-1569, 80-1570; Acts §§ 1, 2; 1983 (Ex. Sess.), No. 93, §§ 1, 2; 1987, No. 770, §§ 1, 2; 1997, No. 230, § 1.

6-18-215. School enrollment census — Determining student dropout rates.

(a)(1)(A) On or before October 1 of each school year, a public school shall conduct a census of all students enrolled at the school to arrive at a school enrollment census total for each grade.

(B) The number of students transferring into the school October 1 through September 30 of the following school year shall be added to the October 1 school enrollment census total for each grade.

(C) The number of students transferring out of the school October 1 through September 30 of the following school year shall be subtracted from the October 1 school enrollment census total for each grade.

(2) The number of students transferring out of a school shall be based on the number of official transcripts requested by other schools.

(3) Each school shall maintain separate records regarding students who leave the public school system to be home-schooled under § 6-15-503.

(b) The school enrollment census total as calculated and adjusted under subsection (a) of this section shall be used to determine the dropout rate for each school as follows:

(1) For grades two through twelve (2-12), the school enrollment census total for the current school year is compared to the school enrollment census total for each of the previous grades of the previous school year; and

(2) For grade one (1), the school enrollment census total for the current school year is compared to the school enrollment census total for the kindergarten class of the previous year.

(c) The graduation rates, as defined by the Department of Education, shall be tracked for students in grades nine through twelve (9-12).

(d) The department shall use this section for in-state reporting purposes related to school dropout rates.

(e) The State Board of Education shall promulgate rules to require school districts to report graduation and dropout data each year in accordance with this section.

History. Acts 2003 (2nd Ex. Sess.), No. 104, § 1; 2005, No. 2151, § 18.

Publisher's Notes. Former section 6-18-215, concerning the administrator's report of parental noncompliance and notification of parent or guardian, was repealed by Acts 1993, No. 475, § 17. The section was derived from Acts 1931, No. 169, § 155; Pope's Dig., §§ 3581, 11597; A.S.A. 1947, § 80-1507.

Amendments. The 2005 amendment substituted "through September 30 of the

following school year" for "but before the end of the school year" in (a)(1)(B) and (a)(1)(C); in (a)(2), deleted "into or" following "transferring" and "received from other schools and the number of transcripts" following "transcripts"; deleted "after October 1 of each school year" in (a)(3); substituted "two through twelve (2-12)" for "kindergarten through eleven (K-11)" in (b)(1); rewrote (b)(2); and substituted "data" for "rates" in (e).

6-18-216. [Repealed.]

Publisher's Notes. This section, concerning the penalty for violating attendance provisions, was repealed by Acts 1993, No. 475, § 18. The section was de-

rived from Acts 1931, No. 169, § 156; Pope's Dig., §§ 3582, 11598; A.S.A. 1947, § 80-1508; Acts 1989, No. 473, § 3.

6-18-217. Records to be kept by teachers.

(a) It shall be the duty of each teacher in the public schools of Arkansas to keep an accurate record of attendance and nonattendance of all children enrolled in his or her class or classes.

(b) Any teacher failing to keep such record may have his or her license revoked for such failure.

History. Acts 1931, No. 169, § 157; Pope's Dig., §§ 3583, 11599; A.S.A. 1947, § 80-1509; Acts 2001, No. 1553, § 15.

Cross References. Revocation of li-

cense for falsifying attendance records, § 6-17-407.

Teachers' records and reports, § 6-17-104.

6-18-218. [Repealed.]

A.C.R.C. Notes. Pursuant to § 1-2-207, the amendment to this section by Acts 1993, No. 294, § 12 was superseded by the repeal of this section by Acts 1993, No. 475, § 19. As amended by Acts 1993, No. 294, § 12, this section read:

"6-18-218. Monthly report of parental noncompliance — Notification of prosecuting attorney.

"(a) It shall be the duty of each teacher in the public schools, either directly or through his or her principal or superintendent, to report specially each month to the county board or the board's designee and to the clerk or secretary of the school district board of directors the names and addresses of any parents or guardians residing in his or her district who have failed to comply with the provisions of this

act after due notice was given as provided in § 6-10-107.

"(b) It shall be the duty of the county board or the board's designee to forward copies of the report, within ten (10) days after receiving it, to the prosecuting attorney of the district.

"(c) The provisions of this section shall not be construed as conflicting with duties and powers of the attendance officers as set forth in § 6-18-210."

Publisher's Notes. This section, concerning monthly reports of parental noncompliance and notification of the prosecuting attorney, was repealed by Acts 1993, No. 475, § 19. The section was derived from Acts 1931, No. 169, § 158; Pope's Dig., §§ 3584, 11600; A.S.A. 1947, § 80-1510.

6-18-219. False attendance reports.

Any teacher, principal, superintendent, or any other person whose duty it is to make reports as to the schools of the county who shall make a false report to the State Board of Education as to the number of children enumerated, the number enrolled in school, or the number in average daily attendance in the schools shall be:

(1) Guilty of a violation punishable by a fine not to exceed one hundred dollars (\$100), payable into the general school fund of the county; and

(2) Liable personally for any loss of revenue that the district or state sustains as a result of the false report.

History. Acts 1931, No. 169, § 176; Pope's Dig., §§ 3591, 11618; A.S.A. 1947, § 80-1901; Acts 1993, No. 294, § 12; 1999, No. 1078, § 72; 2005, No. 1994, § 65.

Amendments. The 2005 amendment

substituted "violation" for "misdemeanor" in (1).

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-18-220. Excused absences for participation in FFA, FHA, and 4-H programs — Equal treatment.

(a) The General Assembly finds and declares that:

(1) The FFA, FHA, and 4-H programs in the state involve an education and learning process that is not otherwise available in the regular curriculum of secondary education in Arkansas;

(2) The principles and practices learned by school students in the FFA, FHA, and 4-H programs are highly beneficial to students;

(3) Participation in such programs should be encouraged; and

(4) One method of encouraging participation in such programs is to excuse the absences of students from regular classes when the students are participating in officially sanctioned activities of those organizations.

(b) Therefore, it is the purpose and intent of this section to assure that class absences of students who are participating in sanctioned FFA, FHA, and 4-H activities are excused to such extent as may be determined by the boards of directors of the respective districts, with the participants in the three (3) programs being treated equally with respect to such absences.

(c) Any school district that excuses absences of FFA member students who attend officially sanctioned FFA activities shall afford equal treatment to FHA and 4-H member students who attend the same or similar officially sanctioned activities.

History. Acts 1981, No. 245, §§ 1, 2; §§ 1, 2; A.S.A. 1947, §§ 80-1558 — 80-1981, No. 382, §§ 1, 2; 1981, No. 689, 1561.

6-18-221. Cooperation of law enforcement agencies.

(a) Any public school district may enter into a cooperative agreement with local law enforcement officials to implement within the district an "Operation Stay in School Program".

(b) Upon the request of the board of directors of the school district, the law enforcement agency shall stipulate, with the administration of the school district, specific days and hours when law enforcement officers will attempt to locate school-age students in the community who are off school premises during school hours without valid documentation excusing their absence.

(c) Any certified law enforcement officer may stop and detain any unsupervised school-age student located off school premises during school hours and request the production of documentation excusing the student absence from school.

(d) Upon the student's failure to produce sufficient documentation, the law enforcement officer may take the student into custody and return the student to his or her school, transport the student to his or her parent, or transport the student to the truancy reception center, which shall not be a jail, juvenile detention center, or police department, and which has been designated by the school district.

(e)(1) Any school district adopting this program shall include in its attendance policy a notice to parents and students that it has entered into a cooperative agreement with law enforcement officials to implement an Operation Stay in School Program, and unsupervised students found off school premises during school hours shall be subject to questioning by a law enforcement officer under the program.

(2) Any school district adopting this program shall include provisions for furnishing valid documentation for students in work-study programs or other authorized absences from school premises in order to assist law enforcement officers in determining the validity of documentation excusing the student's absence from school during school hours.

History. Acts 1989, No. 867, § 1; 1995, No. 1296, § 22.

CASE NOTES

Cited: Walker v. State, 308 Ark. 498, 825 S.W.2d 822 (1992).

6-18-222. Penalty for excessive unexcused absences — Revocation of driving privilege.

(a)(1)(A)(i) The board of directors of each school district in this state shall adopt a student attendance policy, as provided for in § 6-18-209, which shall include a certain number of excessive absences that may be used as a basis for denial of course credit, promotion, or graduation.

(ii) However, excessive absences shall not be a basis for expulsion or dismissal of a student.

(B) The legislative intent is that a student having excessive absences because of illness, accident, or other unavoidable reasons should be given assistance in obtaining credit for the courses.

(2) The State Board of Workforce Education and Career Opportunities shall adopt a student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in an adult education program. The policy shall require a minimum attendance of ten (10) hours per week to remain in the program.

(3) A copy of the school district's student attendance policy or the board's student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in adult education shall be provided to the students' parents, guardians, or persons in loco parentis at the beginning of the school year or upon enrollment, whichever event first occurs.

(4)(A) A student's parents, guardians, or persons in loco parentis and the community truancy board shall be notified when the student has accumulated excessive unexcused absences equal to one-half ($\frac{1}{2}$) the total number of absences permitted per semester under the school district's or the board's student attendance policy. Notice shall be by telephonic contact with the student's parents, guardians, or persons in loco parentis by the end of the school day in which the absence

occurred or by regular mail with a return address on the envelope sent no later than the following school day. Notice to the community truancy board shall be by letter to the chair of the community truancy board.

(B) The community truancy board shall schedule a conference with the parents, guardians, or persons in loco parentis to establish a plan to take steps to eliminate or reduce the student's unexcused absences.

(C) If the student's parents, guardians, or persons in loco parentis do not attend the scheduled conference, the conference may be conducted with the student and a school official. However, the parent, guardian or person in loco parentis shall be notified of the steps to be taken to eliminate or reduce the child's absence.

(5)(A) Whenever a student exceeds the number of excessive unexcused absences provided for in the district's or the board's student attendance policy, the school district or the adult education program shall notify the prosecuting authority and the community truancy board, and the student's parents, guardians, or persons in loco parentis shall be subject to a civil penalty through a family in need of services action in circuit court, as authorized under subdivision (a)(6)(A) of this section, but not to exceed five hundred dollars (\$500) plus costs of court and any reasonable fees assessed by the court.

(B) The penalty shall be forwarded by the court to the school or the adult education program attended by the student.

(6)(A)(i) Upon notification by the school district or the adult education program to the prosecuting authority, the prosecuting authority shall file in circuit court a family in need of services petition pursuant to § 9-27-310 or enter into a diversion agreement with the student pursuant to § 9-27-323.

(ii) For any action filed in circuit court to impose the civil penalty set forth in subdivision (a)(5) of this section, the prosecuting authority shall be exempt from all filing fees and shall take whatever action is necessary to collect the penalty provided for in subdivision (a)(5) of this section.

(B) Municipal attorneys may practice in circuit court for the limited purpose of filing petitions or entering into diversion agreements as authorized by this subdivision (a)(6)(B) if agreed upon by all of the parties pursuant to subdivision (a)(6)(A) of this section.

(7)(A) The purpose of the penalty set forth in this subsection is to impress upon the parents, guardians, or persons in loco parentis the importance of school or adult education attendance, and the penalty is not to be used primarily as a source of revenue.

(B)(i) When assessing penalties, the court shall be aware of any available programs designed to improve the parent-child relationship or parenting skills.

(ii) When practicable and appropriate, the court may utilize mandatory attendance at the programs as well as community service requirements in lieu of monetary penalties.

(8) As used in this section, "prosecuting authority" means:

(A) The elected district prosecuting attorney or his or her appointed deputy for schools located in unincorporated areas of the county or within cities not having a police or district court; and

(B) The prosecuting attorney of the city for schools located within the city limits of cities having either a police court or a district court in which a city prosecutor represents the city for violations of city ordinances or traffic violations.

(9) In any instance in which it is found that the school district, the adult education program, or the prosecuting authority is not complying with the provisions of this section, the State Board of Education may petition the circuit court to issue a writ of mandamus.

(b)(1)(A) Each public, private, or parochial school shall notify the Department of Finance and Administration whenever a student fourteen (14) years of age or older is no longer in school.

(B) Each adult education program shall notify the department whenever a student sixteen (16) or seventeen (17) years of age has left the program without receiving a high school equivalency certificate.

(2)(A) Upon receipt of notification, the department shall notify the licensee by certified mail, return receipt requested, that his or her motor vehicle operator's license will be suspended unless a hearing is requested in writing within thirty (30) days from the date of notice.

(B) The licensee shall be entitled to retain or regain his or her license by providing the department with adequate evidence that:

(i) The licensee is eighteen (18) years of age;

(ii) The licensee is attending school or an adult education program; or

(iii) The licensee has obtained a high school diploma or its equivalent.

(C)(i) In cases in which demonstrable financial hardship would result from the suspension of the learner's permit or driver's license, the department may grant exceptions only to the extent necessary to ameliorate the hardship.

(ii) If it can be demonstrated that the conditions for granting a hardship were fraudulent, the parent, guardian, or person in loco parentis shall be subject to all applicable perjury statutes.

(3) The department shall have the power to promulgate rules and regulations to carry out the intent of this section and shall distribute to each public, private, and parochial school and each adult education program a copy of all rules and regulations adopted under this section.

History. Acts 1989, No. 473, §§ 1, 2; 1989 (3rd Ex. Sess.), No. 70, §§ 1-5; 1991, No. 876, § 1; 1992 (1st Ex. Sess.), No. 42, § 1; 1994 (2nd Ex. Sess.), No. 30, § 2; 1994 (2nd Ex. Sess.), No. 31, § 2; 1995, No. 572, § 1; 1995, No. 837, § 3; 1995, No. 1296, § 23; 1997, No. 1308, § 1; 1999, No. 1323, § 20; 1999, No. 1579, § 2[3]; 2003, No. 1166, § 38.

A.C.R.C. Notes. Identical Acts 1994 (2nd Ex. Sess.), Nos. 30 and 31, § 5 provided: "The Department of Vocational Education shall promulgate emergency rules and regulations to implement the provisions of this act relative to adult education within ten (10) days from and after its passage and approval."

Cross References. Transition provi-

sions, tenure of present justices and judges, and jurisdiction of present courts, Ark. Const. Amend. 80, § 19.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey, Family Law, 12 U. Ark. Little Rock L.J. 631.

6-18-223. Credit for college courses.

(a)(1) A public school student who is enrolled in a public school in Arkansas and who has successfully completed the eighth grade shall be eligible to enroll in a publicly supported community college or four-year college or university in accordance with rules and regulations adopted by each institution in consultation with the Arkansas Higher Education Coordinating Board.

(2) A student who enrolls in and successfully completes a course or courses offered by an institution of higher education shall be entitled to receive appropriate academic credit in both the institution of higher education and the public school in which such student is enrolled, which credit shall be applicable to graduation requirements.

(b) The State Board of Education is authorized to adopt rules and regulations as may be necessary for implementation of this requirement.

History. Acts 1989 (3rd Ex. Sess.), No. 60, § 1; 1991, No. 1097, § 1.

A.C.R.C. Notes. Acts 1991, No. 1097, § 2 provided: "Any public school student who completed college courses after January 1, 1990, but prior to the effective date

of this act [July 15, 1991], shall be eligible to receive from the institution of higher education appropriate academic credit for such courses without regard to the grade level in which the student was enrolled in the public school at such time."

6-18-224. Early graduation.

Any student who is enrolled in a public high school in Arkansas and has earned the number of credits required by the local school district for graduation shall be eligible to graduate from the high school without regard to the grade level the student is enrolled in at the time such credits are earned.

History. Acts 1997, No. 275, § 1.

6-18-225. Definition.

As used in this section and § 6-18-226, "community truancy board" means a board composed of members of the local community in which the child attends school.

History. Acts 1999, No. 1579, § 1.

6-18-226. Community truancy boards — Members — Duties.

(a) The local school district boards of directors may create a community truancy board or may use other boards that exist or are created such as diversion boards. However, a diversion or other existing board must agree before it is used as a community truancy board.

(b) Members of the community truancy board shall be selected from representatives of the community.

(c) Duties of a community truancy board shall include, but not be limited to, recommending methods for improving school attendance such as assisting the parent or the child to obtain supplementary services that might eliminate or ameliorate the causes for the absences or suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program.

History. Acts 1999, No. 1579, § 2.

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

(a)(1) This section may be referred to and cited as the “Arkansas Opportunity Public School Choice Act of 2004”.

(2)(A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a school designated as a level 1 school under § 6-15-2103 for two (2) or more consecutive years; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school that is performing satisfactorily.

(C) This section shall take effect with the implementation of school performance category levels.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school board members will

have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a failing school to another public school in the state, subject to the restrictions contained in this section.

(b)(1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district to another public school in accordance with the provisions of this section if:

(A) The resident public school has been designated pursuant to § 6-15-2103 as a level 1 school for two (2) or more consecutive school years; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2)(A)(i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, makes application no later than July 30 for attendance or transfer as provided for by §§ 6-18-202, 6-18-206, and 6-18-316.

(ii) Such a transfer shall be effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3)(A) For each student enrolled in or assigned to a school that has been designated as a level 1 school for two (2) or more consecutive school years, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available pursuant to this section; and

(ii) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school that has been designated by the state pursuant to § 6-15-2103 as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than annual performance category level 3. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(B)(i) The parent or guardian of a student enrolled in or assigned to a school that has been designated as a school in level 1 under § 6-15-2103 for two (2) or more consecutive years may choose as an alternative to enroll the student in a legally allowable category level 3 or higher performing public school nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding pursuant to applicable state law.

(C)(i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., and who participate in this program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for such a student shall be transferred to the district to which the student transfers.

(c)(1) Transportation costs shall be the responsibility of the state, and the State Board of Education shall establish rules pertaining to state reimbursement of transportation costs.

(2) However, upon the transferring district's receiving a category level 3 or higher for its annual performance, the transportation costs shall no longer be the responsibility of the state, and the student's transportation and the costs thereof shall be the responsibility of the parents.

(d)(1) Each district school board of directors shall offer the opportunity public school choice option within the public schools. The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2) In the event that the opportunity public school choice option results in a receiving district's requiring temporary facilities or faculty as a result of and to accommodate the additional students, expenses related thereto in excess of that received for each student electing the opportunity public school choice option shall be borne by the state.

(e) The provisions of this section and all student choice options created in this section are subject to the limitations of § 6-18-206(d)-(f).

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each district school board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h)(1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state equalization aid, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j)(1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the Joint Interim Committee on Education.

(k)(1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) The parent or guardian shall ensure that the student participating in the opportunity public school choice option takes all statewide assessments, including, but not limited to, benchmark exams, required pursuant to § 6-15-433.

(3) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l)(1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under this program shall request public service announcements to be made over the broadcast media and in the print

media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22. deleted former (n); and redesignated former (o) as present (n).

Amendments. The 2005 amendment

6-18-228. Attending classes and programs not offered by an assigned school.

Any student who is enrolled in a public school in a school district that is administratively consolidated by §§ 6-13-1601 et seq., 6-13-1405(a)(5), and 6-20-602 may be eligible, at the discretion of the local school board of directors, to attend any class or academic program or participate in any extracurricular activity or program offered by another school in the administratively consolidated district if the public school to which the student is assigned to attend does not offer the same or similar class, academic program, or extracurricular activity or program.

History. Acts 2003 (2nd Ex. Sess.), No. 91, § 1.

6-18-229. Service as page for General Assembly.

If a student is invited by a member of the General Assembly to serve as a page for the General Assembly during a legislative session, the student shall be considered on instructional assignment and shall not be considered absent from school for the one (1) day the student is serving as a page, and he or she may be allowed additional instructional assignment days at the discretion of the school district.

History. Acts 2005, No. 2199, § 1.

SUBCHAPTER 3 — ASSIGNMENT

SECTION.

- 6-18-301 — 6-18-305. [Repealed.]
- 6-18-306. [Repealed and transferred.]
- 6-18-307. Transfer from one school district to adjoining school district.
- 6-18-308 — 6-18-310. [Repealed.]

SECTION.

- 6-18-311 — 6-18-315. [Reserved.]
- 6-18-316. Transfer on petition of student.
- 6-18-317. Prohibited transfers.
- 6-18-318. Waiver of prohibition.
- 6-18-319. District contacts.

Cross References. Assignment of teachers, § 6-17-303. by the General Assembly that the minimum distances prescribed in Arkansas Code 6-18-307 are being interpreted by some to be measured as air miles; that it was never the intent of the General As-

Effective Dates. Acts 1989, No. 731, § 4: Mar. 21, 1989. Emergency clause provided: "It is hereby found and determined

sembly that the distances be measured by air miles, but it was the intent that the distances be measured using highways which could reasonably be traversed by school buses; that this Act specifically requires the distances to be computed using highways which can safely and reasonably be traversed by school buses; that the confusion should be eliminated as soon as possible; and that since this Act clarifies the law it should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 950, § 5: Mar. 27, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain Arkansas Code provisions which have their roots in the segregative practices of the 1950s, are still in effect and may be impeding the state's efforts to rid itself of all vestiges of segregation. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1078, § 92: effective July 1, 2000.

CASE NOTES

ANALYSIS

Constitutionality.

Purpose.

Desegregation.

Constitutionality.

Pupil assignment law was constitutional on its face since it assures equal rights to all children in any school districts as pupil assignments are made. *Parham v. Dove*, 271 F.2d 132 (8th Cir. 1959).

Purpose.

Pupil assignment law was designed to

invalidate the practice of enrollment according to residence alone. *Norwood v. Tucker*, 287 F.2d 798 (8th Cir. 1961).

Desegregation.

For cases discussing pupil assignment law as it related to desegregation of schools, see *Parham v. Dove*, 271 F.2d 132 (8th Cir. 1959); *Dove v. Parham*, 181 F. Supp. 504 (E.D. Ark. 1960), *aff'd*, 282 F.2d 256 (8th Cir. Ark. 1960); *Norwood v. Tucker*, 287 F.2d 798 (8th Cir. 1961).

RESEARCH REFERENCES

Ark. L. Rev. Gitelman and McIvor, *Domicile, Residence and Going to School in Arkansas*, 37 Ark. L. Rev. 843.

C.J.S. 79 C.J.S., *Schools*, § 450.

6-18-301 — 6-18-305. [Repealed.]

Publisher's Notes. These sections, concerning assignment of pupils to schools, were repealed by Acts 1989, No. 950, § 1. They were derived from the following sources:

6-18-301. Acts 1959, No. 461, §§ 1, 2; A.S.A. 1947, § 80-1525.

6-18-302. Acts 1959, No. 461, § 3; A.S.A. 1947, § 80-1526.

6-18-303. Acts 1959, No. 461, §§ 4, 11; A.S.A. 1947, §§ 80-1527, 80-1533.

6-18-304. Acts 1959, No. 461, §§ 11, 12; A.S.A. 1947, §§ 80-1533, 80-1534.

6-18-305. Acts 1959, No. 461, § 4; A.S.A. 1947, § 80-1527.

6-18-306. [Repealed and transferred.]

Publisher's Notes. This section, concerning transfer from one district to another generally, was repealed by Acts 1989, No. 950, § 1. This section was derived from Acts 1959, No. 461, § 5; 1981, No. 436, § 1; A.S.A. 1947, § 80-1528; Acts 1987, No. 464, § 1.

Subsections (a)-(e) of this section were repealed by Acts 1989, No. 950, § 2, which also transferred subsections (f) and (g) to § 6-18-316(f) and (g). Former (a)-(e) were derived from Acts 1959, No. 461, § 5; 1981, No. 436, § 1; A.S.A. 1947, § 80-1528.

6-18-307. Transfer from one school district to adjoining school district.

(a)(1) The parent or guardian of any child or ward whose place of residence is at least fifteen (15) miles from the school in the resident district and whose place of residence is within seven (7) miles of a school in an adjoining district may petition the board of directors of the resident district for a transfer to the adjoining district if the adjoining district has agreed in writing to accept transfer of the child. The minimum distances prescribed by this subsection (a) shall be computed using highways that could reasonably and safely be traversed by school buses. A copy of such written agreement by the receiving district shall be filed with any such petition.

(2) If the parents or guardians of several children in a particular area meet the requirements prescribed in this subsection (a), the parents or guardians may jointly petition the board of directors of the resident district for transfer of their children or wards to the adjoining district.

(b)(1) When any individual or joint petition as authorized in subsection (a) of this section is filed with the board of directors of any school district, the board of directors shall within thirty (30) days after the date of the filing of the petition either grant or deny the transfer.

(2) If the board of directors denies the petition, the petitioners may appeal to the State Board of Education.

(3) Within forty-five (45) days after the appeal to the state board, the state board shall either grant or deny the transfer.

(4) The ruling of the state board shall be the final administrative ruling on the petition.

(c) The transfer of any child or children from one district to another as permitted in this section shall constitute a transfer of the legal responsibility for the education of the child or children to the receiving district, and the child or children shall be included in the average daily membership of the receiving district for state aid purposes.

History. Acts 1983 (Ex. Sess.), No. 61, § 2; A.S.A. 1947, § 80-1528.1; Acts 1989, No. 731, § 1; 1999, No. 1078, § 73.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

6-18-308 — 6-18-310. [Repealed.]

Publisher's Notes. These sections, concerning hearings for objections to school assignment, were repealed by Acts 1989, No. 950, § 1. They were derived from the following sources:

6-18-308. Acts 1959, No. 461, § 7; A.S.A. 1947, § 80-1529.

6-18-309. Acts 1959, No. 461, § 10; A.S.A. 1947, § 80-1532.

6-18-310. Acts 1959, No. 461, § 9; A.S.A. 1947, § 80-1531.

6-18-311 — 6-18-315. [Reserved.]**6-18-316. Transfer on petition of student.**

(a) Upon the petition of a student residing in one (1) school district, the resident district, to transfer to another school district, the receiving district, the board of directors of the resident district may enter into an agreement with the board of directors of the receiving school district transferring the student to the receiving district for purposes of education.

(b) Forms for use in transferring children from one (1) school district to another shall be provided by the Department of Education.

(c) After the petition has been approved by the board of directors of the resident district and the board of directors of the receiving district, copies of approved transfers shall be filed by the receiving district with the office of the county clerk, with the administrative offices of the respective school districts, and with the department.

(d) This legal transfer of a student from one (1) district to another places the responsibility for the education of the student on the receiving district and permits the receiving district to count these children in average daily membership for state aid purposes.

(e) This section does not transfer the local tax money from the resident district.

(f) Upon approval of the transfer by the resident district, the receiving district may also enter into a tuition agreement with either the resident district or the parents of the child or children involved whereby the resident district or the parents will make tuition payments to the receiving district to compensate the district for local taxes not received on behalf of the child or children involved. The annual amount of the tuition shall not exceed the average amount of local property tax per pupil collected in the receiving district in the preceding year.

(g) Student transfers granted under the provisions of this section shall be reviewed at the end of four (4) years by the districts involved to determine whether the agreement should be renewed.

History. Acts 1987, No. 464, § 1; 1987, No. 762, § 1; 1989, No. 950, § 2; 2001, No. 1207, § 2.

A.C.R.C. Notes. References to "this

subchapter" in §§ 6-18-301 — 6-18-307 may not apply to this section, which was enacted subsequently.

Publisher's Notes. Subsections (f) and

(g) were formerly codified as § 6-18-306(f) and (g) but were transferred to this section by Acts 1989, No. 950, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Jeffrey, School Law, 7 U. Ark. Little Rock L.J. 255.

CASE NOTES

ANALYSIS

Consent.
Effect of Transfer.
Illegal Enrollment.
Questioning Transfer.
Transfer Order.

Consent.

Even though transfer was approved by accepting school district, it was not a valid transfer if approved by neither the county board of education administering the sending district nor the school board of the sending district. *Bell v. Howard County Training School Dist. No. 38*, 236 Ark. 742, 368 S.W.2d 266 (1963) (decision under prior law).

In order to constitute a legal transfer of students, both school districts must consent to the transfer of students, even if the receiving district is not attempting to claim state money. *Newark Sch. Dist. v. Cord-Charlotte Sch. Dist.*, 278 Ark. 110, 644 S.W.2d 253 (1983) (decision under prior law).

Former statute requires the written agreement of both the sending and receiving district before a child domiciled in one district could attend school in another district. *Delta Special School Dist. # 5 v. McGehee Special School Dist. # 17*, 280 Ark. 489, 659 S.W.2d 508 (1983) (decision under prior law).

Effect of Transfer.

Where a valid order of the county court was outstanding directing the transfer of certain children to a certain school district, together with the taxes paid by their parents, the children were entitled to attend school in that district but school directors could refuse to grant a citizen the privilege of voting in a district in which he did not reside. *Jones v. Floyd*, 129 Ark. 185, 195 S.W. 360 (1917) (decision under prior law).

The district from which a transfer of children had been made no longer had any jurisdiction over the children so transferred. *Stephens v. Humphrey*, 145 Ark. 172, 224 S.W. 442 (1920) (decision under prior law).

Where alleged constitutional violations were not currently causing racial segregation among the school districts, the trial court correctly refused to order consolidation or an interdistrict magnet school plan. *Edgerson ex rel. Edgerson v. Clinton*, 86 F.3d 833 (8th Cir. 1996).

Illegal Enrollment.

The proper remedy by one school district against another for illegal student enrollment is by injunction, not by a suit for damages. *Newark Sch. Dist. v. Cord-Charlotte Sch. Dist.*, 278 Ark. 110, 644 S.W.2d 253 (1983) (decision under prior law).

Questioning Transfer.

As between two school districts involved in a transfer of pupils, the second school district has no standing to question the action of the first district in an improper transfer of pupils from a third district. *Bell v. Howard County Training School Dist. No. 38*, 236 Ark. 742, 368 S.W.2d 266 (1963) (decision under prior law).

Transfer Order.

Transfer held proper. *Special School Dist. No. 33 v. Eubanks*, 119 Ark. 117, 177 S.W. 900 (1915) (decision under prior law).

Where a resident of a school district procured a transfer of his child to an adjoining district in a mandamus proceeding to compel the admission of such child to the latter district, the school directors could not collaterally question the propriety of the order of transfer by asserting that the transfer was secured to enable the child to evade punishment in the district from which he was transferred.

Stephens v. Humphrey, 145 Ark. 172, 224 S.W. 442 (1920) (decision under prior law).

An order for the transfer of children and taxes from one school district to another was merely temporary and remained in effect only while the districts of and from which the transfer was made remained in

existence, and any change in the status of the territory operated as an abrogation of the order of transfer. Mabelvale Special Sch. Dist. v. Halstead Special Sch. Dist., 169 Ark. 645, 276 S.W. 584 (1925) (decision under prior law).

6-18-317. Prohibited transfers.

(a) Boards of directors of local school districts are prohibited from granting legal transfers in the following situations:

(1) When either the resident or the receiving district is under a desegregation-related court order or has ever been under such a court order; and

(2) The transfer in question would negatively affect the racial balance of that district which is or has been under such a court order.

(b) Each form filed with the Department of Education reporting a legal student transfer must be accompanied by an affidavit signed by each member of both school boards of directors stating that the transfer does not violate the prohibition set forth in subsection (a) of this section.

(c) If the transfer fails to comply with subsection (b) of this section, the department shall withhold from each district state aid in an amount equal to that to be generated by the student in question in the respective districts.

History. Acts 1987, No. 762, §§ 2-4.

CASE NOTES

ANALYSIS

Applicability.
Effect of Transfer.

Applicability.

The making of a choice created by § 6-18-203 does not result in a "transfer" as contemplated by this section; the prohibition of this section is against "legal transfers," dealt with generally in former § 6-18-306, which provides for petitioning to attend school in a nonresident district, requiring the approval of both the sending and the receiving district. The legislature did not use the term "legal transfer" in § 6-18-203(b), but referred to being "en-

rolled" in the district where the parent teaches; there is no suggestion in the latter statute that the legislature intended this process to be comparable to "legal transfer"; therefore, these statutes are not irreconcilable. *Love v. Hill*, 297 Ark. 96, 759 S.W.2d 550 (1988).

Effect of Transfer.

Where alleged constitutional violations were not currently causing racial segregation among the school districts, the trial court correctly refused to order consolidation or an interdistrict magnet school plan. *Edgerson ex rel. Edgerson v. Clinton*, 86 F.3d 833 (8th Cir. 1996).

6-18-318. Waiver of prohibition.

(a) Any district not currently under a desegregation-related court order, but which has been under such a court order in the past, may apply for a waiver of the prohibition set forth in § 6-18-317(a).

(b) The State Board of Education may grant such a district a waiver from the provisions of § 6-18-317(a) if it is determined that the district's desegregation status would not be adversely affected by allowing a legal transfer that would negatively affect the district's racial balance.

History. Acts 1987, No. 762, § 5.

6-18-319. District contacts.

(a) The superintendent of a school district, or the superintendent's designee, accepting the transfer of a student from another district in the state shall make proper inquiry of the parents or guardian of the student to determine whether the student has proper contacts or other legal right to be enrolled as a student in that district.

(b) The superintendent of the school district, or the superintendent's designee, shall promptly verify to the district from which the student transferred that the student has been approved for enrollment in the district after a determination that the child has a legal right to attend in the district.

(c) A school district from which the student transferred has the right to appeal the transfer of the student to the Department of Education. The school district to which the student transferred and the parents or guardian of the student shall have the burden to prove the transfer was proper.

History. Acts 1997, No. 482, § 1.

SUBCHAPTER 4 — ARKANSAS AMERICAN COLLEGE TEST ASSESSMENT ASSISTANCE PILOT PROGRAM

SECTION.

- 6-18-401. Title.
- 6-18-402. Purpose.
- 6-18-403. Definitions.
- 6-18-404. Creation — Fees — Rules.
- 6-18-405. Participation.

SECTION.

- 6-18-406. Fee waiver request.
- 6-18-407. Fee waiver eligibility — Review committee.
- 6-18-408. Donations and grants.

6-18-401. Title.

This subchapter shall be known and may be cited as the “Arkansas American College Test Assessment Assistance Pilot Program Act of 1999”.

History. Acts 1999, No. 1226, § 1.

Publisher's Notes. Former § 6-18-401, concerning instruction for students prohibited from attending public school,

was repealed by Acts 1989, No. 950, § 1. The section was derived from Acts 1959, No. 46, §§ 1-3; A.S.A. 1947, §§ 80-1545 — 80-1547.

6-18-402. Purpose.

(a) The purpose of this subchapter is to serve as a legislative charter and guidance for the continuation of the establishment of pilot locations, organization, and administration of a program designed to improve the academic preparation of public high school students for postsecondary education throughout the state.

(b) It is the intent of the General Assembly that the Arkansas American College Test Assessment Assistance Pilot Program continue as set forth in this subchapter.

History. Acts 1999, No. 1226, § 2;
2001, No. 1093, § 1.

6-18-403. Definitions.

As used in this subchapter:

(1) "American College Test assessment" means a test of student educational development that measures student readiness for future learning produced by ACT, Incorporated, that may be used by an institution of higher education as a part of its admissions process;

(2) "American College Test Fee Waiver Program" means the assessment fee waiver program established and administered by ACT, Incorporated;

(3) "Board" means the State Board of Education;

(4) "Department" means the Department of Education;

(5) "Commissioner" means the Commissioner of Education;

(6) "Program" means the Arkansas American College Test Assessment Assistance Pilot Program.

History. Acts 1999, No. 1226, § 3.

6-18-404. Creation — Fees — Rules.

(a)(1) The Arkansas American College Test Assessment Assistance Pilot Program is hereby established, to be administered by the Commissioner of Education.

(2) Each academic year, the Department of Education shall gradually increase the number of pilot locations allowed to participate in the program until all or substantially all school districts in the state with students in grades eleven (11) and twelve (12) are allowed to participate in the program.

(b)(1) Contingent upon legislative appropriations, the state will pay all or part of the American College Test assessment registration fee.

(2) The State Board of Education shall create a sliding scale based on family income.

(c) The board is authorized to promulgate rules and regulations necessary to implement this subchapter, including the criteria for waiving the American College Test assessment fee.

History. Acts 1999, No. 1226, § 4;
2001, No. 1093, § 2.

6-18-405. Participation.

Every public high school student in the pilot locations who is enrolled in the core curriculum established pursuant to § 6-61-217 shall take the American College Test assessment prior to the completion of the spring semester of his or her junior year unless the student's parents, guardians, or persons in loco parentis request in writing that the student not participate.

History. Acts 1999, No. 1226, § 5.

6-18-406. Fee waiver request.

Public high school counselors shall request a waiver of the American College Test assessment fee for any student for whom a waiver would be appropriate based on the guidelines for waivers set forth by ACT, Inc.

History. Acts 1999, No. 1226, § 8.

6-18-407. Fee waiver eligibility — Review committee.

(a) The American College Test assessment fee may be waived if a student can demonstrate that the payment of the fee would cause a financial hardship upon the student or his or her family.

(b) To qualify for the waiver, the student and the student's parents, guardians, or persons in loco parentis shall petition the public high school principal in writing prior to the start of the spring semester of the student's junior year.

(c) Upon receipt of the request for waiver of the fee, the principal shall establish a committee composed of the following school personnel to evaluate and accept or reject the request for a waiver:

- (1) The high school principal;
- (2) The high school counselor; and
- (3) Two (2) high school teachers.

(d) The committee shall meet at least thirty (30) days prior to the first administration of the American College Test assessment during the spring semester to review the requests and shall issue a written notice of the committee's recommendation to the student and the student's parents, guardians, or persons in loco parentis.

(e) Upon receipt of notice of denial of the waiver request, the student or the student's parents, guardians, or persons in loco parentis may petition the superintendent for a review of the denial.

(f) The superintendent's written decision on the request for review shall be considered the final decision regarding the fee waiver request.

History. Acts 1999, No. 1226, § 6.

6-18-408. Donations and grants.

(a) The awards granted under the provisions of this subchapter may be funded by donations, grants, or legislative appropriation.

(b) All donations, grants, and appropriations received shall be accounted for by the Department of Education.

(c) The Commissioner of Education may solicit and receive donations and grants for the purpose of making awards.

History. Acts 1999, No. 1226, § 7.

SUBCHAPTER 5 — DISCIPLINE

SECTION.

6-18-501. Duty of teachers, classified school employees, and volunteers.

6-18-502. Guidelines for development of school district student discipline policies.

6-18-503. Written student discipline policies required.

6-18-504. Compliance with §§ 6-18-502 and 6-18-503.

6-18-505. School Discipline Act.

6-18-506. School Dismissal Act.

6-18-507. Suspension — Expulsion.

SECTION.

6-18-508. Alternative learning environment.

6-18-509. Assessment and intervention in alternative learning environments.

6-18-510. Enrollment during expulsion — School policy.

6-18-511. Removal by teacher.

6-18-512. Seizure of hand-held laser pointers.

6-18-513. Parental notification.

6-18-514. Antibullying policies.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-18-501 — 6-18-513 may not apply to § 6-18-514, which was enacted subsequently.

Preambles. Acts 2007, No. 115, contained a preamble which read:

“WHEREAS, bullying creates an intolerable and sometimes dangerous educational environment for a student or public school employee who is the target of bullying or who is close to the target; and

“WHEREAS, the definition of bullying varies widely among public school districts in the state and the General Assembly finds that public school districts and the Department of Education would benefit from legislative guidance for defining bullying; and

“WHEREAS, cyberbullying, or the use of computers, websites, the Internet, cell phones, text messaging, chat rooms, and instant messaging to ridicule, harass, intimidate, humiliate, or otherwise bully another student, is a growing problem for public school students due to the increased use of such electronic devices by

children both on and off of public school premises; and

“WHEREAS, cyberbullies feel protected by anonymity and by the knowledge that children who are targeted do not want to report cyber assaults because they fear losing their access to electronic devices or having the situation aggravated by adult interference; and

“WHEREAS, because cyberbullying has the potential for instantaneous distribution to a wide audience, it can impact the educational environment by rapidly reaching a large number of students and public school employees, and creating an environment of fear and intimidation that materially or substantially disrupts class work and discipline in a public school,

“NOW THEREFORE, . . .”

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: “It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public

schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1977, No. 904, § 4: Aug. 15, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly that the effectiveness of this Act on August 15, 1977 is essential to the operation of the public and private schools of this State, and that delay in the effective date of this Act beyond August 15, 1977 could work irreparable harm upon the proper administration of the public and private school systems. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after August 15, 1977."

Acts 1979, No. 74, § 6: Feb. 7, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the lack of proper discipline in our public schools is hampering many students in their academic endeavors and that many school boards have not adopted written regulations regarding school discipline, and that this Act is necessary to immediately improve the quality of education in this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from the date of its passage and approval."

Acts 1989, No. 146, § 4: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the use of electronic communication devices can be used to facilitate drug trafficking in the schools and that the use of such devices should be eliminated unless a legitimate purpose is found to exist for the possession of such devices

upon the school campuses. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1994 (2nd Ex. Sess.), No. 51, § 9: Aug. 25, 1994. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas, meeting in Second Extraordinary Session, that student discipline is essential to the creation of an optimum learning environment; and that the only place that many individuals are likely to learn self-control and good behavior is in the public schools; and that teachers and administrators in school districts that authorizes corporal punishment should have adequate protection from civil liability, provided only that the corporal punishment is administered in accord with certain procedures. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 333, § 5: approved Feb. 14, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly that there is some confusion in the various school districts of this state as to procedures for administering corporal punishment, as set forth in Act 51 of the Second Extraordinary Session of 1994 and that immediate implementation of this act is necessary to clarify these procedures. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 567, § 8: Mar. 9, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that Arkansas law governing the expulsion of public school students determined to have brought a firearm or other prohibited weapon upon a school campus does not conform with current federal requirements set forth in the Gun-Free Schools Act of 1994; that failure to immediately remedy the law by legislative ac-

tion will place federal funds received by the State of Arkansas in jeopardy. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 597, § [6]: Mar. 13, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the immediate effectiveness of this act is essential to implementation of alternative learning environments throughout the state of Arkansas by the 1995-1996 school year and that any delay in the effective date of this act could work irreparable harm to the quality of education available to certain students in this state. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that

this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 742, § 5: Mar. 21, 1997. Emergency clause provided: "It is found and determined by the General Assembly that the recent decision by the Arkansas Supreme Court in *Richie v. Board of Education of Lead Hill School District* has created some confusion in local school districts as to the validity of written student discipline policies in cases involving suspensions and expulsions and that it is necessary that this act take immediate effect to resolve this confusion. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

A.L.R. Criminal responsibility of parent for act of child. 12 A.L.R.4th 673.

Admissibility of hearsay evidence in student disciplinary proceedings. 30 A.L.R.4th 935.

Am. Jur. 68 Am. Jur. 2d, Schools, § 242 et seq.

C.J.S. 79 C.J.S., Schools, § 493 et seq.

6-18-501. Duty of teachers, classified school employees, and volunteers.

(a) Every teacher shall seek to exercise wholesome discipline in his

or her school and endeavor by precept and otherwise to instill and cultivate in the pupils good morals and gentle manners.

(b) Classified school employees and volunteers shall have as a minimum the responsibility to appropriately assist and support teachers in these efforts.

History. Acts 1931, No. 169, § 171;
Pope's Dig., § 11613; A.S.A. 1947, § 80-
1629; Acts 1999, No. 1475, § 1.

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2)(A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property;

(D) Possession by a student of any paging device, beeper, or similar electronic communication device on the school campus, however:

(i) The policy may provide an exemption for possession of such a device by a student who is required to use such a device for health or other compelling reasons; and

(ii) The policy may exempt possession of such a device after normal school hours for extracurricular activities; and

(E) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2)(A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

History. Acts 1983 (Ex. Sess.), No. 77, § 1; 1995, No. 567, § 1; 1995, No. 968, § 1; 1983 (Ex. Sess.), No. 104, § 1; A.S.A. § 1; 1997, No. 706, § 1; 1999, No. 1475, 1947, § 80-1629.6; Acts 1989, No. 146, §§ 2, 3; 2001, No. 447, § 1.

CASE NOTES

Construction.

Subsection (c) of this section does not impliedly repeal § 6-18-507(b). *Richie v.*

Board of Educ., 326 Ark. 587, 933 S.W.2d 375 (1996).

6-18-503. Written student discipline policies required.

(a)(1)(A) Each school district in this state shall develop written student discipline policies in compliance with the guidelines established by the Department of Education and shall file such policies with the department.

(B) Guidelines shall include minimum standards of quality, experimentation with innovative programs, and a system to judge the effectiveness of the program.

(C) The discipline policy shall include provisions for:

(i) Placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a handicapping condition in an alternative learning environment provided by the district; and

(ii) Expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) Behavioral problems shall include those at risk of not satisfactorily completing a high school education.

(b)(1) A school district that authorizes use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or a school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or administrator employed by the school district.

(2) As used in this section, "teachers and administrators" means those persons employed by a school district and required to have a state-issued certificate as a condition of their employment.

(c) Any amendments or revisions to a school district's student discipline policies shall be developed and adopted in the same manner as the original policies required by § 6-18-502 and shall be consistent with the guidelines established by the department.

(d) Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the department within thirty (30) days after the adoption of such amendment or revision.

History. Acts 1983 (Ex. Sess.), No. 77, § 1; 1994 (2nd Ex. Sess.), No. 51, §§ 2, 5; § 2; 1983 (Ex. Sess.), No. 104, § 2; A.S.A. 1995, No. 333, § 1; 1995, No. 567, § 2. 1947, § 80-1629.7; Acts 1991, No. 830,

CASE NOTES

Compliance.

Teacher who struck student on the head to get his attention and to restore order in the classroom was not authorized by the school to use corporal punishment and, even if the school district had permitted it, her actions were not carried out in conformity with the minimum statutory guidelines of subdivision (b)(1) of this section; thus, although neither the teacher nor the school district argued explicitly that the teacher was entitled to statutory immunity under § 6-18-505, the teacher's lack

of compliance with her district's policy was a factor that weighed against a finding that the discipline in question was reasonable. *Daniels v. Lutz*, 407 F. Supp. 2d 1038 (E.D. Ark. 2005).

School principal did not commit child maltreatment while disciplining a student as the administration of corporal punishment under subdivision (b)(1) of this section was properly administered; the parents and school administrator were present, and no one, not even the student, indicated the paddling was too hard. Ark.

Dep't of Human Servs. v. Holman, 96 Ark. App. 243, — S.W.3d — (2006).

Cited: Richie v. Board of Educ., 326 Ark. 587, 933 S.W.2d 375 (1996).

6-18-504. Compliance with §§ 6-18-502 and 6-18-503.

(a) The Department of Education shall monitor compliance with the requirements of §§ 6-18-502 and 6-18-503, and the State Board of Education shall adopt rules and regulations for the administration of the requirements thereof.

(b) Any school district failing to file the disciplinary policy required by § 6-18-503 with the department shall have all state aid funds withheld until such disciplinary policy is filed with the department.

(c) Nothing in § 6-18-502, § 6-18-503, or this section, or any student discipline policies promulgated under § 6-18-502, shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

History. Acts 1983 (Ex. Sess.), No. 77, § 3; 1983 (Ex. Sess.), No. 104, § 3; A.S.A. 1947, § 80-1629.8.

6-18-505. School Discipline Act.

(a) This section may be cited as the "School Discipline Act".

(b) Every teacher is authorized to hold every pupil strictly accountable for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess.

(c)(1) Any teacher or school administrator in a school district that authorizes use of corporal punishment in the district's written student discipline policy may use corporal punishment, provided only that the punishment is administered in accord with the district's written student discipline policy, against any pupil in order to maintain discipline and order within the public schools.

(2) As used in subdivision (c)(1) of this section, "teachers and administrators" means those persons employed by a school district and required to have a state-issued certificate as a condition of their employment.

History. Acts 1977, No. 904, §§ 1, 2; A.S.A. 1947, §§ 80-1629.1, 80-1629.2; Acts 1994 (2nd Ex. Sess.), No. 51, §§ 1, 5.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey of Arkansas Law, Public Law, 1 U. Ark. Little Rock L.J. 230.

CASE NOTES

Compliance.

Teacher who struck student on the head to get his attention and to restore order in the classroom was not authorized by the school to use corporal punishment and, even if the school district had permitted it, her actions were not carried out in conformity with the minimum statutory guidelines of § 6-18-503(b)(1); thus, although neither the teacher nor the school district argued explicitly that the teacher was entitled to statutory immunity under this section, the teacher's lack of compliance with her district's policy was a factor that weighed against a finding that the discipline in question was reasonable. Daniels

v. Lutz, 407 F. Supp. 2d 1038 (E.D. Ark. 2005).

School principal did not commit child maltreatment while disciplining a student as the administration of corporal punishment under § 6-18-503(b)(1) was properly administered; the parents and school administrator were present, and no one, not even the student, indicated the paddling was too hard. Ark. Dep't of Human Servs. v. Holman, 96 Ark. App. 243, — S.W.3d — (2006).

Cited: Arkansas Dep't of Human Servs. v. Caldwell, 39 Ark. App. 14, 832 S.W.2d 510 (1992).

6-18-506. School Dismissal Act.

(a) This section may be cited as the "School Dismissal Act".

(b) Every school district board of directors shall adopt and file with the Department of Education written policies concerning the violation of school standards such as disrespect for teachers and classified school employees, vandalism, and other undesirable behavioral patterns.

(c) Every school district board of directors in this state shall hold its pupils strictly accountable for any disorderly conduct in school, on the school grounds, in a school bus, or at any school function.

(d) Each school district board of directors shall adopt written rules and regulations delineating its disciplinary policies.

(e) The policy may be revised at any time by filing an updated policy with the department.

History. Acts 1979, No. 74, §§ 1-3; A.S.A. 1947, §§ 80-1629.3 — 80-1629.5; Acts 1999, No. 1475, § 4.

Publisher's Notes. Acts 1979, No. 74, § 4, provided that any school district

which failed to file the disciplinary policy required by this section by November 1, 1979, would have all state aid funds withheld until the regulation is filed with the Department of Education.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Heller and Sallings, Survey of Public Law, 3 U. Ark. Little Rock L.J. 296.

CASE NOTES

Accountable for Conduct.

Where it was conclusive that a note written by an eighth grade female student to a third student contained threatening language toward another pupil, the school board acted reasonably under subsection

(c) of this section in enforcing its policy against a student threatening another student and expelled the note writer for the remainder of the school year. Cross County Sch. Dist. v. Spencer, 75 Ark. App. 421, 58 S.W.3d 406 (2001).

6-18-507. Suspension — Expulsion.

(a) As used in this section:

(1) “Course time” means the number of hours of instruction devoted to a single subject during the school week;

(2) “Expulsion” means dismissal from school for a period of time that exceeds ten (10) days;

(3) “Nontraditional scheduling” means block or other alternative scheduling as defined by the Department of Education; and

(4) “Suspension” means dismissal from school for a period of time that does not exceed ten (10) days.

(b) The board of directors of a school district may suspend or expel any student from school for violation of the school district’s written discipline policies.

(c)(1) The board of directors may authorize a teacher or an administrator to suspend any student for a maximum of ten (10) school days for violation of the school district’s written discipline policies, subject to appeal to the superintendent or his or her designee; however, schools that utilize nontraditional scheduling may not suspend students from more course time than would result from a ten-day suspension under the last traditional schedule used by the school district.

(2) If the superintendent initiates the suspension process, the decision may be appealed to the board of directors.

(d)(1) A superintendent may recommend the expulsion of a student for more than ten (10) days for violation of the school district’s written discipline policies, subject to appeal to the board of directors and to requirements of the federal Individuals with Disabilities Education Act.

(2) All school district board of directors meetings entertaining an appeal shall be conducted in executive session if requested by the parent or guardian of the student provided that after hearing all testimony and debate, the board of directors shall conclude the executive session and reconvene in public session to vote on such appeal.

(e)(1) The superintendent of any school district shall recommend the expulsion of any student from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) All school districts shall adopt a written policy regarding expulsion of a student for possessing a firearm or other prohibited weapon on school property that shall require parents, guardians, or other persons in loco parentis of a student expelled under this subsection (e) to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property. The statement shall be signed by the parents, guardians, or other persons in loco parentis prior to readmitting a student or enrolling a student in any public school immediately after the expiration of an expulsion period pursuant to this subsection (e).

(3)(A) The school administrators and the local school board of directors shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student.

(B) The principal of each school shall report within a week to the department the name, current address, and social security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(C) The expulsion shall be noted on the student's permanent school record.

(D) Nothing in this subdivision (e)(3) shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis as set out in this subsection (e).

(4)(A) The department shall establish and maintain a registry of students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(B) The names, addresses, and social security numbers of all students listed in the registry shall be available by phone, facsimile, or mail to any school principal in the state.

(f)(1) Upon suspension of a student, the school shall immediately contact the student's parent or legal guardian to notify the parent or legal guardian of the suspension.

(2) Each parent or legal guardian shall provide the school:

(A)(i) A primary call number.

(ii) If the call number changes, the parent or legal guardian shall notify the school of the new primary call number;

(B) An email address if the parent or guardian does not have a telephone; or

(C) A current mailing address if the parent or guardian does not have a telephone or email address.

(3) The contact required in subsection (f) of this section is sufficient if made by:

(A) Direct contact with the parent or legal guardian at the primary call number or in person;

(B) Leaving a voice mail at the primary call number;

(C) Sending a text message to the primary call number;

(D) Email if the school is unable to make contact through the primary call number; or

(E) Regular first-class mail if the school is unable to make contact through the primary call number or email.

(4) The school shall keep a notification log of contacts attempted and made to the parent or legal guardian.

History. Acts 1931, No. 169, § 170; Pope’s Dig., § 11612; Acts 1979, No. 441, § 1; A.S.A. 1947, § 80-1516; Acts 1995, No. 567, § 3; 1997, No. 742, § 1; 1999, No. 1150, § 1; 2007, No. 159, § 1.

Amendments. The 2007 amendment inserted “or her” in (c)(1); and added (f).

U.S. Code. The Individuals with Disabilities Education Act, referred to in this section, is primarily codified as 20 U.S.C. § 1401 et seq.

RESEARCH REFERENCES

Ark. L. Notes. Strickman, Schools, Guns and the Future of the Commerce Clause, 1995 Ark. L. Notes 77.

Ark. L. Rev. The Emerging Law of Students’ Rights, 23 Ark. L. Rev. 619.

Procedural Due Process — Student Suspensions, 29 Ark. L. Rev. 239.

Watkins, Open Meetings Under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268.

CASE NOTES

ANALYSIS

- Construction.
- Grounds.
- Judicial Review.
- Right to Appeal.
- Transfer.
- Wrongful Suspension.

Construction.

Section 6-18-502(c) does not impliedly repeal subsection (b) of this section. *Richie v. Board of Educ.*, 326 Ark. 587, 933 S.W.2d 375 (1996).

Grounds.

School directors were authorized to suspend a pupil who was drunk and disorderly in violation of a town ordinance. *Douglas v. Campbell*, 89 Ark. 254, 116 S.W. 211 (1909) (decision under prior law).

Judicial Review.

Circuit court exceeded its jurisdiction in granting parents’ request for a temporary restraining order preventing school district from expelling two students. The parents failed to exhaust their administrative remedies before the school board, and there was no final administrative action to review under this section. *Helena-West Sch. Dist. No. 2 v. Circuit Court of Phillips County*, — Ark. —, — S.W.3d —, 2007 Ark. LEXIS 209 (Mar. 15, 2007).

Right to Appeal.

Subsection (b) of this section clearly establishes the legal right to a hearing before the school board when a student is suspended. *Richie v. Board of Educ.*, 326 Ark. 587, 933 S.W.2d 375 (1996).

Parent who voluntarily selected suspension as an alternative form of punishment to paddling did not forfeit the right to appeal under subsection (b) of this section. *Richie v. Board of Educ.*, 326 Ark. 587, 933 S.W.2d 375 (1996).

Transfer.

A child transferred from one district to another could not be excused from past conduct in violation of the rules of the school from which he was transferred. *Stephens v. Humphrey*, 145 Ark. 172, 224 S.W. 442 (1920) (decision under prior law).

Wrongful Suspension.

A parent had no right to sue for damages for the unlawful suspension of his child from a public school unless he had sustained some direct pecuniary injury thereby; his remedy being by mandamus to compel the school authorities to allow his child to attend school. *Douglas v. Campbell*, 89 Ark. 254, 116 S.W. 211 (1909) (decision under prior law).

Cited: *Fortman v. Texarkana School Dist. No. 7*, 257 Ark. 130, 514 S.W.2d 720 (1974); *Smith v. Little Rock Sch. Dist.*, 582 F. Supp. 159 (E.D. Ark. 1984).

6-18-508. Alternative learning environment.

(a) Every school district shall establish an alternative learning environment that shall afford students an environment conducive to learning.

(b) The alternative learning environment required by this section may be established by more than one (1) school district or may be operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.

(c) The Department of Education shall establish criteria for teacher preparation for alternative learning environments, which shall include inservice training.

(d)(1)(A) Each school district shall report on a yearly basis to the department the race, gender, and other pertinent information regarding alternative learning environment attendees.

(B) This information shall be reported by the department to the Joint Interim Oversight Subcommittee on Educational Reform by September 15 of each year.

(2) The Arkansas Pygmalion Commission on Nontraditional Education will also report its findings by the same time each year to the same legislative body.

History. Acts 1991, No. 830, § 2; 1995, No. 597, § 1; 1995, No. 1296, § 24; 1997, No. 112, § 11; 1999, No. 391, § 12; 1999, No. 1299, § 1; 2005, No. 2121, § 9; 2007, No. 617, § 13.

A.C.R.C. Notes. As amended by Acts 1995, No. 597, this section contained an additional subsection which read: "Those school districts above two thousand (2,000) average daily membership, by the year 1993-94; those above one thousand (1,000) average daily membership, 1994-95; all other school districts, 1995-96."

The Arkansas Pygmalion Commission

on Nontraditional Education, referred to in (d)(2), was created by uncodified acts which are noted at Title 6, Chapter 10.

Section 6-15-805, establishing the Joint Interim Oversight Subcommittee on Educational Reform, expired by its own terms on July 1, 2000.

Amendments. The 2005 amendment rewrote (d)(1)(A); and deleted former (e) and (f).

The 2007 amendment substituted "an education service cooperative established under § 6-13-1001" for "a public school educational cooperative established under § 6-13-901" in (b).

6-18-509. Assessment and intervention in alternative learning environments.

(a) As used in this section, "intervention services" means activities within or outside a school that will eliminate traditional barriers to learning.

(b) An Arkansas school district electing to operate an alternative class or school should provide for:

(1) Student assessment either before or upon entry into the class or school; and

(2) Intervention services designed to address the specific educational needs of individual students.

(c) A student assigned to an alternative class or school for behavioral reasons must receive intervention services designed to address the

student's behavioral problems. Such intervention services shall not be punitive in nature but must be designed for long-term improvement of the student's ability to control his or her behavior.

(d) Along with its annual report to the Department of Education, a school district shall submit an assurance statement that it is in compliance with the establishment of an alternative learning environment.

(e) The department shall work with alternate classes and schools in assisting them in complying with the provisions of this section.

(f) The department shall periodically, but not less often than every three (3) years, monitor each school district or cooperative to ensure that alternative learning environments have been established, are conducive to learning, and are providing intervention services designed to address individual needs of students.

(g) A school district that does not comply with these provisions shall be identified each year in the department's annual school district report card.

History. Acts 1993, No. 1287, § 1; **Amendments.** The 2005 amendment 1995, No. 597, § 2; 1999, No. 1299, § 2; repealed (h). 2005, No. 2121, § 10.

6-18-510. Enrollment during expulsion — School policy.

The board of directors of any school district may adopt a policy that, after a hearing before the board of directors, any person who has been expelled as a student from any other school district may not enroll as a student until the time of the person's expulsion has expired.

History. Acts 1995, No. 472, § 1.

6-18-511. Removal by teacher.

(a) Consistent with state and federal law, a teacher may remove a student from class and send him or her to the principal's or principal's designee's office in order to maintain effective discipline in the classroom.

(b) A teacher may remove from class a student:

(1) Who has been documented by the teacher as repeatedly interfering with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn; or

(2) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach the students in the class or with the ability of the student's classmates to learn.

(c) If a teacher removes a student from class in accordance with subsection (b) of this section, the principal or his or her designee may:

(1) Place the student into another appropriate classroom, into in-school suspension, or into the district's alternative learning environment established in accordance with § 6-18-508, so long as such

placement is consistent with the school district's written student discipline policy;

(2) Return the student to the class; or

(3) Take other appropriate action consistent with the school district's discipline policy, state law, and federal law.

(d)(1) If a teacher removes a student from class two (2) times during any nine-week grading period or its equivalent as determined by the Department of Education, the principal or the principal's designee may not return the student to the teacher's class unless a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

(A) The principal or the principal's designee;

(B) The teacher;

(C) The school counselor;

(D) The parents, guardians, or persons in loco parentis; and

(E) The student, if appropriate.

(2) The failure of the parents, guardians, or persons in loco parentis to attend the conference provided for in this subsection (d) shall not prevent the conference from being held nor prevent any action from being taken as a result of that conference.

History. Acts 1999, No. 1281, § 1.

6-18-512. Seizure of hand-held laser pointers.

Each school district shall adopt a policy providing for the seizure by school personnel of hand-held laser pointers in the possession of students.

History. Acts 1999, No. 1408, § 2.

Cross References. Possession of laser light by minor, § 5-60-122.

6-18-513. Parental notification.

(a) A school or school district shall comply with subsection (b) of this section if the school or school district with respect to a student under the age of eighteen (18):

(1) Makes a report to any law enforcement agency concerning student misconduct;

(2) Grants law enforcement personnel other than a school resource officer acting in the normal course and scope of his or her assigned duties access to a student; or

(3) Knows that a student has been taken into custody by law enforcement personnel during the school day or while under school supervision.

(b)(1) The principal or, in the principal's absence, the principal's designee shall make a reasonable, good faith effort to notify the student's parent, legal guardian, or other person having lawful control of the student by court order or person acting in loco parentis listed on

student enrollment forms of the occurrence of any of the events in subsection (a) of this section.

(2) The principal or the principal’s designee shall notify the student’s parent, legal guardian, or other person having lawful control of the student under an order of court or person acting in loco parentis that the student has been reported to, interviewed by, or taken into custody by law enforcement personnel.

(3) If the principal or the principal’s designee is unable to reach the parent, he or she shall make a reasonable, good faith effort to get a message to the parent to call either the principal or the principal’s designee and leave both a day and an after-hours telephone number.

(c) Notification required by subsection (b) of this section is not required if school personnel make a report or file a complaint based on suspected child maltreatment as required under § 12-12-507 or if a law enforcement officer, investigator of the Crimes Against Children Division of the Department of Arkansas State Police, or Department of Human Services investigator or personnel member interviews a student during the course of an investigation of suspected child maltreatment.

History. Acts 2001, No. 1217, § 1; 2005, No. 1415, § 1.

Amendments. The 2005 amendment, in (b)(1), substituted “notify” for “contact” and added “of the occurrence of any of the

events in subsection (a) of this section”; in (b)(2), substituted “notify the student’s” for “give the” and deleted “notice” following “loco parentis”; and rewrote (c).

6-18-514. Antibullying policies.

(a)(1) The General Assembly finds that every public school student in this state has the right to receive his or her public education in a public school educational environment that is reasonably free from substantial intimidation, harassment, or harm or threat of harm by another student.

(2) The school board of directors in every public school district shall adopt policies to prevent pupil harassment, also known as bullying.

(3) As used in this subchapter:

(A) “Bullying” means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that causes or creates a clear and present danger of:

(i) Physical harm to a public school employee or student or damage to the public school employee’s or student’s property;

(ii) Substantial interference with a student’s education or with a public school employee’s role in education;

(iii) A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or

(iv) Substantial disruption of the orderly operation of the school or educational environment;

(B) "Electronic act" means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager;

(C) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; and

(D) "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

- (i) Necessary cessation of instruction or educational activities;
- (ii) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;
- (iii) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or
- (iv) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

(b) The policies shall:

(1)(A) Clearly define conduct that constitutes bullying.

(B) The definition shall include without limitation the definition contained in subsection (a) of this section;

(2) Prohibit bullying:

(A) While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, at school-sanctioned events; or

(B)(i) By an electronic act that results in the substantial disruption of the orderly operation of the school or educational environment.

(ii) This section shall apply to an electronic act whether or not the electronic act originated on school property or with school equipment, if the electronic act is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school, and has a high likelihood of succeeding in that purpose;

(3) State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;

(4) Require that a school employee who has witnessed or has reliable information that a pupil has been a victim of bullying as defined by the district shall report the incident to the principal;

(5) Require that the person or persons who file a complaint will not be subject to retaliation or reprisal in any form;

(6) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district; and

(7) Require that copies of the notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be provided to parents, students, school volunteers, and employees. Each policy shall require that a full copy of the policy be made available upon request.

(c) A school employee who has reported violations under the school district's policy shall be immune from any tort liability that may arise from the failure to remedy the reported incident.

(d) The local school board of directors may provide opportunities for school employees to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by this policy.

(e)(1) The school district shall file with the Department of Education a copy of the policies adopted in compliance with this section.

(2) The State Board of Education shall review the policies provided by the school districts and may recommend changes or improvements to the districts if the state board determines that the policies need improvement.

History. Acts 2003, No. 681, § 1; 2005, No. 1437, § 1; 2007, No. 115, § 1.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-18-501 — 6-18-513 may not apply to this section, which was enacted subsequently.

Acts 2007, No. 115, § 2, provided: "Separability. The provisions of this Act are hereby declared to be separable and if any section or provision of this Act is determined to be invalid, such determination shall not affect the validity of any remaining section or provision of this Act."

Amendments. The 2005 amendment

rewrote (b)(2); added (b)(5); redesignated former (b)(5) and (b)(6) as present (b)(6) and (b)(7); and made minor stylistic changes.

The 2007 amendment, in (a), added (a)(1), redesignated the existing provisions as (a)(2), inserted "public" in (a)(2), and added (a)(3); in (b), added (b)(1)(B), redesignated the existing provision as (b)(1)(A), added (b)(2)(B), redesignated the existing provisions as (b)(2)(A); and inserted "equipment or" in (b)(2)(A); and made related changes.

SUBCHAPTER 6 — FRATERNITIES, SORORITIES, ETC.

SECTION.

6-18-601. Definition.

6-18-602. Penalty.

6-18-603. Unlawful organizations.

6-18-604. Exclusions.

6-18-605. Suspension or expulsion of members.

SECTION.

6-18-606. Soliciting pledges.

6-18-607. Reference to unlawful organizations in publications.

Cross References. Hazing, § 6-5-201 et seq.

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 258.

C.J.S. 79 C.J.S., Schools, § 499.

6-18-601. Definition.

As used in this subchapter, “public school fraternity, sorority, or other secret organization or society” means any type of organization or society that fosters undemocratic practices and seeks to perpetuate itself by taking in additional members from the pupils enrolled in that school or local school system on the basis of the decision of its membership rather than upon the free choice of any pupil in the school who is qualified by the rules of the school to fill the special aims of the organization or society.

History. Acts 1929, No. 171, § 1; Pope’s Dig., § 3604; A.S.A. 1947, § 80-2001.

6-18-602. Penalty.

Any person, firm, or corporation violating any of the provisions of this subchapter shall be guilty of a violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each and every offense.

History. Acts 1929, No. 171, § 7; Pope’s Dig., § 3610; A.S.A. 1947, § 80-2007; Acts 2005, No. 1994, § 66. **Amendments.** The 2005 amendment substituted “violation” for “misdemeanor.”

6-18-603. Unlawful organizations.

Any public school fraternity, sorority, or secret society or organization as defined in this subchapter is declared to be inimical to public free schools and therefore unlawful.

History. Acts 1929, No. 171, § 2; Pope’s Dig., § 3605; A.S.A. 1947, § 80-2002.

6-18-604. Exclusions.

The provisions of this subchapter shall not apply to:

(1) Fraternities, sororities, or secret societies of the University of Arkansas, any state teachers’ college, or other state-supported institutions of junior college rank, or rank above junior college, or senior high school students of national fraternities or sororities, nor to students of these institutions in their relation to such societies or organizations in these institutions; or

(2) Any nonsecret society or organization authorized and sponsored by the public school authorities.

History. Acts 1929, No. 171, § 6; Pope’s Dig., § 3609; A.S.A. 1947, § 80-2006.

CASE NOTES

In General.

This section does not authorize the existence of societies, but merely exempts

them from penalties otherwise provided. *Isgrig v. Srygley*, 210 Ark. 580, 197 S.W.2d 39 (1946).

6-18-605. Suspension or expulsion of members.

It shall be the duty of school directors and boards of education, school inspectors, and other corporate authority managing and controlling any of the public schools of the state to suspend or expel from the schools under their control any pupil who shall:

(1) Be or remain a member, promise to join, become a member, or solicit other persons to join, promise to join, or pledge to become a member of any such public school fraternity, sorority, or secret society or organization;

(2) Wear or display any insignia of such fraternity, sorority, or secret society or organization while in and attending public schools.

History. Acts 1929, No. 171, § 3; Pope's Dig., § 3606; A.S.A. 1947, § 80-2003.

CASE NOTES

Validity of Rules.

School board rules preventing students who were members of secret groups from receiving school honors or participating in

school activities were within the powers of the board. *Isgrig v. Srygley*, 210 Ark. 580, 197 S.W.2d 39 (1946).

6-18-606. Soliciting pledges.

It shall be unlawful from and after the passage of this act for any person not enrolled in a public school of this state to solicit any pupil enrolled in a public school of this state to join or pledge himself or herself to become a member of a public school fraternity, sorority, or secret society or organization, or to solicit any such pupil to attend a meeting thereof or any meeting in which the joining of any public school fraternity, sorority, or secret organization shall be encouraged.

History. Acts 1929, No. 171, § 4; Pope's Dig., § 3607; A.S.A. 1947, § 80-2004.

171 was signed by the Governor on March 22, 1929, and became effective on June 13, 1929.

Publisher's Notes. In reference to the term "passage of this act," Acts 1929, No.

6-18-607. Reference to unlawful organizations in publications.

It shall be unlawful for any public newspaper, periodical, or other publication to designate in its columns high school fraternity, sorority, or secret society or organization as defined in § 6-18-601, or refer to such fraternity, sorority, or secret society or organization in any published reference as a high school fraternity, sorority, or secret society or organization.

History. Acts 1929, No. 171, § 5; Pope's Dig., § 3608; A.S.A. 1947, § 80-2005.

SUBCHAPTER 7 — HEALTH

SECTION.

- 6-18-701. Physical examinations.
- 6-18-702. Immunization.
- 6-18-703. School-based health clinics.
- 6-18-704. [Repealed.]
- 6-18-705. Breakfast program.

SECTION.

- 6-18-706. School nurse.
- 6-18-707. Prescription asthma inhaler or auto-injectable epinephrine.

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1983, No. 150, § 3: Feb. 11, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that in some rare instances children have serious adverse reactions to the mandatory pertussis immunizations required for admittance into public and private schools of this State; that in such cases, for fear of an hereditary factor being involved, the siblings of such children should not be required to risk such serious adverse reactions by submitting to the pertussis immunizations; that present law does not make provision for such rare occurrences; and that this Act is immediately necessary to protect the health of such children. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety

shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1181, § 44: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 1173, § 42: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the

public peace, health and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1999, No. 1222, § 21: Apr. 8, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that it is essential to the effective and efficient administration of the Child Care Licensing program that the responsibility for reviewing appeals be placed in the Child Care Appeal Review Panel under the Department of Human Services, as soon as possible and that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval of the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden,

it shall become effective on the date the last house overrides the veto.”

Acts 2003, No. 999, § 4[5]: Apr. 1, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the federal District Courts for the Eastern and Western Districts of Arkansas have held the state’s school immunization statute to be unconstitutional, that the courts have stayed the effect of the finding, that if the stay is lifted before this act becomes effective, some students will be excluded from school attendance. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 292 et seq. **C.J.S.** 79 C.J.S., Schools, § 452 et seq.

CASE NOTES

Vaccination.

School law did not impliedly repeal powers of State Board of Health regarding

requirement of vaccination for school children. *Seubold v. Fort Smith Special School Dist.*, 218 Ark. 560, 237 S.W.2d 884 (1951).

6-18-701. Physical examinations.

(a) It shall be lawful for the board of directors of any school district in this state to appoint and provide for the payment of one (1) or more physicians or nurses and to assign any person so employed to the public schools of the district for the purpose of making such physical examinations of the pupils of the schools as may be prescribed in the rules and regulations of the State Board of Education.

(b) The nature of the examination shall be only such as to detect contagious or infectious diseases or any defect of sight, hearing, or function or condition of health tending to prevent any pupil from receiving the full benefit of school work.

(c) It shall be the duty of any physician or nurse so employed to make such examinations for contagious or infectious disease, including the teeth and mouth, whenever the examination may be deemed necessary,

and to make examination for other defects at least one (1) time in each school year, preferably at or near the beginning of the year.

(d) In any city, town, or any county where the health authorities are providing for the physical examination of public school children substantially as contemplated in this section, the examination provided for in this section need not be made by any school physician or school nurse.

(e) Nothing in this section shall be construed as preventing boards of directors from requiring teachers to make such tests of sight and hearing as may be prescribed by the board of directors.

(f) Any pupil may be excused from the examination herein provided for on presentation of a certificate from a reputable physician that the physician has recently examined the pupil or on presentation of a written statement of the pupil's parent or guardian that the parent or guardian objects to the examination of his or her child or ward, but this provision shall not be applicable in case of a pupil suspected of having a contagious or infectious disease.

History. Acts 1931, No. 169, § 193; Pope's Dig., § 11635; A.S.A. 1947, § 80-1219.

6-18-702. Immunization.

(a) Except as otherwise provided by law, no infant or child shall be admitted to a public or private school or child care facility of this state who has not been age-appropriately immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, rubella, and other diseases as designated by the State Board of Health, as evidenced by a certificate of a licensed physician or a public health department acknowledging the immunization.

(b)(1) The responsibility for the enforcement of this section rests equally with each school district of this state and the parent or guardian of the child or pupil, and each of them shall be separately and individually liable for permitting any violation of this section.

(2)(A) The Division of Child Care and Early Childhood Education of the Department of Human Services shall be responsible for enforcing this section with respect to child care facilities.

(B) The division may promulgate appropriate rules and regulations, to be approved by the Arkansas Early Childhood Commission, for the enforcement of this section.

(C) The owners or managers of those facilities and any parent or guardian violating the regulations shall be subject to the penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et seq.

(c)(1)(A)(i) The division shall be responsible for enforcing this section with respect to child care facilities.

(ii) The division may promulgate appropriate rules and regulations for the enforcement of this section.

(B) The owners or managers of those facilities and any parent or guardian violating the regulations shall be subject to the penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et seq.

(2)(A) Regarding kindergarten through grade 12 (K-12), the State Board of Education, after having consulted with the State Board of Health, shall promulgate appropriate rules and regulations for the enforcement of this section by school boards of directors, superintendents, and principals.

(B) Any school official, parent, or guardian violating the regulations shall be subject to the penalties imposed in this section.

(d)(1)(A) The State Board of Health shall promulgate rules and regulations to ensure that all exemptions provided by this section shall have a minimal effect on the health and safety of all children attending day care or kindergarten through grade twelve (K-12).

(B) The rules shall provide for, but are not limited to, the tracking of those children with exemptions so that appropriate steps may be taken in the event of an outbreak or epidemic.

(2) The Department of Health, and no other department or entity, shall grant exemptions provided by this section.

(3) If in the discretion of the health authority having jurisdiction or of any physician licensed to practice by the Arkansas State Medical Board any person to whom this section applies shall be deemed to have a physical disability that may contraindicate vaccination, a certificate to that effect issued by the health officer may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when the disability shall have been removed.

(4)(A) This section shall not apply if the parents or legal guardian of that child object thereto on the grounds that immunization conflicts with the religious or philosophical beliefs of the parent or guardian.

(B) The parents or legal guardian of the child shall complete an annual application process developed in the rules and regulations of the Department of Health for medical, religious, and philosophical exemptions.

(C) The rules and regulations developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(i) A notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

(ii) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(iii) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health's refusal-to-vaccinate form; and

(iv) A signed statement of understanding that:

(a) At the discretion of the Department of Health, the unimmunized child or individual may be removed from day care or school

during an outbreak if the child or individual is not fully vaccinated; and

(b) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(D) No exemptions may be granted under this subdivision (d)(4) until the application process has been implemented by the Department of Health and completed by the applicant.

(5) Furthermore, the provisions of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

(e) Any person found guilty of violating this section or the regulations promulgated by the State Board of Education or the division for the enforcement of this section shall be guilty of a violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.

History. Acts 1967, No. 244, §§ 1-3; 1973, No. 633, § 1; 1983, No. 150, § 1; A.S.A. 1947, §§ 80-1548 — 80-1550; Acts 1997, No. 871, § 1; 1999, No. 1222, §§ 1, 2; 2003, No. 999, § 1; 2005, No. 1994, § 185.

Amendments. The 2005 amendment substituted “violation and upon ... for each offense” for “misdemeanor” in (e).

RESEARCH REFERENCES

Ark. L. Rev. Note, A Bad Reaction: A Look at the Arkansas General Assembly’s Response to *McCarthy v. Boozman* and *Boone v. Boozman*, 58 Ark. L. Rev. 251.

U. Ark. Little Rock L. Rev. Survey of

Legislation, 2003 Arkansas General Assembly, Education Law, Immunization Requirements, 26 U. Ark. Little Rock L. Rev. 384.

CASE NOTES

ANALYSIS

Constitutionality.
Certificate.

Constitutionality.

The religious exemption from compulsory immunization provided in subdivision (d)(2) of this section clearly violates the Establishment and Free Exercise Clauses of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment, because the exemption benefits only those who are members or adherents of a church or religious denomination recognized by the state. *McCarthy v. Boozman*, 212 F. Supp. 2d 945 (W.D. Ark.

2002). See also *Boone v. Boozman*, 217 F. Supp. 2d 938 (E.D. Ark. 2002).

Certificate.

An exemption certificate must be issued by the health authority or a licensed physician. *Heard v. Payne*, 281 Ark. 485, 665 S.W.2d 865 (1984).

A chiropractor is not a physician within the context of this section and consequently an exemption certificate signed by a chiropractor did not meet the requirements of this section. *Heard v. Payne*, 281 Ark. 485, 665 S.W.2d 865 (1984).

Cited: *Allred v. Arkansas Dep’t of Cor. Sch. Dist.*, 322 Ark. 772, 912 S.W.2d 4 (1995).

6-18-703. School-based health clinics.

(a)(1)(A) No school-based health clinic may be established in a public school until requested by resolution by the school board of directors, and no child shall receive school-based health clinic services without parental consent. Parental consent to contraceptive services and condom distribution shall be specific, in writing, and maintained in the student's health records.

(B)(i) All school-based clinics shall maintain accurate records of the distributing and prescribing of contraceptives and condoms.

(ii) The number of pregnancies and sexually transmitted diseases among students in the schools with school-based clinics shall be transmitted annually to the school board of directors.

(iii) Records maintained under this section are part of the confidential medical record of the student. Numerical or statistical data required to be maintained under this subsection may not be released in a manner that reveals the identity of or any other information contained in the file of the student.

(2) If the board of directors establishes a school-based health clinic, the board of directors shall retain absolute control over the operations and programs offered by the clinic.

(3) Schools that offer sex education in school-based health clinics shall include instruction in sexual abstinence, and no funds shall be utilized for abortion referral.

(b) When any local school board of directors elects to maintain a school-based health clinic in the school, any Department of Health employee working in the clinic shall be subject to the supervision and control of the school board of directors.

(c)(1) No state funds shall be used for the purchase or dispensing of contraceptives or abortifacients in public schools.

(2) Local school boards of directors retain the sole authority over whether and to what extent family planning education is provided in clinics, including any purchase or distribution of contraceptives.

(3) Notice of family planning clinic intentions by a school district shall be given thirty (30) days in advance of a public meeting of the school board of directors.

(d) It is hereby recognized that sexual activity by students places our youths at increased risk of pregnancy and the contraction of acquired immune deficiency syndrome and other sexually transmitted diseases, and it is the policy of the State of Arkansas to discourage such sexual activity. The school board of directors of every school district that associates itself with distributing, recommending, or prescribing condoms or contraceptives shall adopt a resolution acknowledging that there are risks associated with teen sexual activities. It is further required that every public school and public health department sex education and acquired immune deficiency syndrome prevention program shall emphasize premarital abstinence as the only sure means of avoiding pregnancy and the sexual contraction of acquired immune deficiency syndrome and other sexually transmitted diseases.

History. Acts 1991, No. 1035, § 1; 1991, No. 1181, §§ 30, 36, 38; 1993, No. 1173, § 36.

A.C.R.C. Notes. Former § 6-18-703, concerning school-based health clinics, is

deemed to be superseded in part by this section, which was enacted by Acts 1991, No. 1181. The former section was derived from Acts 1989 (1st Ex. Sess.), No. 276, § 41.

6-18-704. [Repealed.]

Publisher's Notes. The amendment of this section by Acts 2003 (2nd Ex. Sess.), No. 41, was deemed to be superseded by its repeal by Acts 2003 (2nd Ex. Sess.), No. 67, § 1. Acts 2003 (2nd Ex. Sess.), No. 41, § 1, amended this section to read as follows:

“(b) Beginning with the 2004-2005 school year, all school districts shall have

no less than the full-time equivalent of one (1) school nurse per seven hundred fifty (750) students or the proportionate ratio thereof.”

This section, concerning school nurses, was repealed by Acts 2003 (2nd Ex. Sess.), No. 67, §§ 1, 2. The section was derived from Acts 1991, No. 1106, §§ 1, 2; 1993, No. 294, § 12; 1997, No. 1342, § 1.

6-18-705. Breakfast program.

(a)(1) Beginning with the 1991-1992 school year, any schools located in a school district in which forty percent (40%) or more of the students enrolled in the school on October 1 of the preceding school year were eligible for free or reduced-price meals shall establish a school breakfast program.

(2) Beginning with the 1992-1993 school year, any schools located in a school district in which thirty-five percent (35%) or more of the students enrolled in the school on October 1 of the preceding school year were eligible for free or reduced-price meals shall establish a school breakfast program.

(3) Beginning with the 1993-1994 school year, any schools located in a school district in which twenty percent (20%) or more of the students enrolled in the school on October 1 of the preceding school year were eligible for free or reduced-price meals shall establish a school breakfast program.

(b) Nothing in this section shall be interpreted to prevent a school district not covered herein from implementing a school breakfast program or to prevent a school district from implementing a school breakfast program during an earlier year than required under this section.

(c) The Department of Education may promulgate rules and regulations necessary for implementation of this section in compliance with federal guidelines.

(d)(1) The State Board of Education may grant a one-year waiver of the requirements of this section to a school covered by this section that lacks facilities or equipment to offer a school breakfast program and in which the acquisition of such by the district would work an extreme hardship during the required year. However, such waiver shall expire and may not be renewed at the beginning of the following school year.

(2) In any high school under the requirements of this section, if fifty percent (50%) or more of the eligible students refuse to participate in

the school breakfast program during any year of the program as demonstrated by sufficient proof to the department, the state board may grant a waiver from the requirements of this section to the high school.

(e) The department is hereby authorized to withhold state equalization aid from any school district that fails to comply with the provisions of this section.

History. Acts 1991, No. 826, § 1; 1991, No. 1127, § 1; 1999, No. 391, § 13.

6-18-706. School nurse.

(a) In order to improve the health status and educational achievement of the children of this state, the General Assembly hereby determines that an appropriate school nurse-to-student ratio is essential to effectively meet the health care needs of these children.

(b) For purposes of this section, “school nurse” means a licensed nurse engaging in school nursing activities.

(c)(1) Beginning with the 2004-2005 school year, all school districts shall have no fewer than the full-time equivalent of one (1) school nurse per seven hundred fifty (750) students or the proportionate ratio thereof.

(2) In districts having a high concentration of children with disabling conditions as determined by the State Board of Education, the ratio of school nurses to students should be one (1) to four hundred (400) in those schools so designated.

(3) In a district that provides a center for profoundly disabled students, the ratio should be one (1) school nurse per one hundred twenty-five (125) students at that center.

(d)(1) School nurses may be employed or provided by contract or agreement with other agencies or individuals provided that the prescribed ratio and equivalency are maintained.

(2) However, no school nurse may be employed by, or contract with, any public secondary or elementary school of this state except with the prior approval of the local school board of directors.

(e)(1) The provisions of this section shall be effective only upon the availability of state funds.

(2) Available funds shall be distributed to school districts based on the previous year’s three-quarter average daily membership.

History. Acts 2003 (2nd Ex. Sess.), No. 67, § 3.

6-18-707. Prescription asthma inhaler or auto-injectable epinephrine.

(a) This section shall be known and may be cited as “Alex’s Law”.

(b) As used in this section:

(1)(A) "Medication" means a drug as that term is defined in § 21 U.S.C. 321(g) of the Federal Food, Drug and Cosmetic Act as in existence on January 1, 2005.

(B) "Medication" includes inhaled bronchodilators and auto-injectable epinephrine; and

(2) "Self-administration" means a person's discretionary use of a medication pursuant to a prescription or written direction from a licensed health care practitioner.

(c)(1) The Department of Education shall develop guidelines for use in school districts that allows a student to carry and use an asthma inhaler or auto-injectable epinephrine, or both, while in school, at an on-site school-sponsored activity, or at an off-site school-sponsored activity.

(2)(A) The procedure shall include, at a minimum, the following provisions:

(i) The parent or guardian of a student who needs to carry an asthma inhaler or auto-injectable epinephrine, or both, shall provide the school with written authorization for the student to carry an asthma inhaler or auto-injectable epinephrine, or both, on his or her person for use while in school, at an on-site school-sponsored activity, or at an off-site school-sponsored activity; and

(ii) The authorization shall be valid only for the duration of the school year at the school that the student is attending at the time the authorization is provided. The authorization must be renewed for each school year or if the student changes schools in order for the student to carry an asthma inhaler or auto-injectable epinephrine, or both, on his or her person.

(B) The parent or guardian of a student who needs to carry an asthma inhaler or auto-injectable epinephrine, or both, shall provide the school with appropriate medical documentation, which shall include:

(i) Evidence that the asthma inhaler or auto-injectable epinephrine, or both, have been prescribed by a health care practitioner with prescriptive privileges;

(ii) Evidence that the student needs to carry the asthma inhaler or auto-injectable epinephrine, or both, on his or her person due to a medical condition; and

(iii) A copy of an individualized health care plan for the student prepared in accordance with § 6-18-1005 and any related rules of the department.

(C) All medical documentation provided with regard to a student who carries an asthma inhaler or auto-injectable epinephrine, or both, shall be kept on file at the school the student attends in a location that is readily accessible in the event of an asthma or anaphylaxis emergency.

(D) A student's asthma inhaler or auto-injectable epinephrine, or both, shall be supplied by the student's parent or guardian and shall be stored and transported in its original prescription-labeled container.

(E) The student shall demonstrate to the health care practitioner who wrote the prescription and the school nurse, if the school nurse is available, the skill level and responsibility necessary to use and administer the asthma inhaler or auto-injectable epinephrine, or both.

(F)(i) A student with asthma is not required by this section or any related rule or school procedure to carry the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person.

(ii) If a student with asthma does not carry the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person, then the student's parent or guardian shall provide the school with appropriate medication in the event of an asthma or anaphylaxis emergency, which shall be immediately available to the student in an emergency.

(G) A student who carries the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person may provide the school with appropriate medication in the event of an asthma or anaphylaxis emergency, which shall be immediately available to the student in an emergency.

(H) A student is prohibited from sharing, transferring, or in any way diverting his or her own medications to any other person.

(d) No school district, school district employee, or agent of a school district shall be liable for injury to a student caused by his or her use of a prescription inhaler or self-administration of medication.

History. Acts 2005, No. 1694, § 1.

SUBCHAPTER 8 — SCHOOL SAFETY PATROLS

SECTION.

6-18-801. Rules and regulations.

6-18-802. Liability.

SECTION.

6-18-803. Powers and duties.

6-18-804. Age and consent requirements.

Effective Dates. Acts 1999, No. 1078,
§ 92: July 1, 2000.

6-18-801. Rules and regulations.

The State Board of Education shall promulgate rules and regulations by which every school district board of directors in this state may organize, regulate, and supervise school safety patrols for the purpose of:

(1) Influencing and encouraging the other pupils from crossing public highways and streets at points other than at regular crossings;

(2) Influencing and encouraging pupils to refrain from crossing at regular crossings when the presence of traffic would render such crossing unsafe; and

(3) Assisting drivers of school buses in maintaining safety rules and in ascertaining that pupils are received and discharged from buses in safety.

History. Acts 1965, No. 13, § 1; A.S.A. 1947, § 80-4401.

6-18-802. Liability.

No liability shall attach either to the State Board of Education, the school district, a superintendent, teacher, safety patrol member, or other school authority by virtue of the organization, maintenance, or operation of a school safety patrol organized, maintained, and operated under authority of and in compliance with this subchapter.

History. Acts 1965, No. 13, § 4; A.S.A. 1947, § 80-4404; Acts 1999, No. 1078, § 92: July 1, 2000.
Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.
§ 74.

6-18-803. Powers and duties.

(a) Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic. However, this shall not prohibit the use of a flag or other approved signal by a safety patrol member for the purpose of indicating to a driver that school children are crossing the street.

(b) No safety patrol member shall be stationed in that portion of the highway intended for the use of vehicular traffic but shall perform his or her duties from the curb and sidewalk areas.

History. Acts 1965, No. 13, § 2; A.S.A. 1947, § 80-4402.

6-18-804. Age and consent requirements.

(a) No pupil shall be designated a safety patrol member under this subchapter unless he or she is eleven (11) years of age or older and has the written permission of a parent or guardian.

(b) Any teacher or board member using any pupil for safety patrol purposes without the written permission of a parent or guardian shall be guilty of a violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.

History. Acts 1965, No. 13, §§ 3, 5; A.S.A. 1947, §§ 80-4403, 80-4405; Acts 2005, No. 1994, § 186.

Amendments. The 2005 amendment

inserted "or she" in (a); and substituted "violation and upon ... for each offense" for "misdemeanor" in (b).

SUBCHAPTER 9 — STUDENT RECORDS

SECTION.

6-18-901. Maintenance of permanent student records.

6-18-901. Maintenance of permanent student records.

(a) The Department of Education, at the direction of the State Board of Education and in cooperation with any other appropriate state agencies, shall develop and publish an itemized listing of all information to be maintained in a student's permanent record during enrollment in a school district in this state.

(b) The permanent student record shall include all information concerning educational programming provided a student who fails to achieve mastery level performance on all administrations of the basic competency tests required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq.

(c) Each school district shall maintain a permanent student record for each student.

(d)(1)(A) A copy of the permanent student record shall be provided to the receiving school district upon the transfer of a student to another district.

(B) The school district shall provide the copy of the student's permanent student record to the receiving school district within ten (10) school days after the date a request from the receiving school district is received.

(C) The school district shall not fail or refuse to provide a copy of the student's permanent student record to the receiving school district because the student owes money to the school district for school-related charges, including without limitation charges for:

- (i) Food services;
- (ii) Unreturned library books; or
- (iii) Fees.

(2) Upon request by the Division of Youth Services of the Department of Human Services, a copy of the education record, as defined by regulations promulgated by the Department of Education, shall be transmitted to the division within ten (10) school days.

(e) The permanent student record shall be maintained by each school district until the student receives a high school diploma or its equivalent or is beyond the age for compulsory attendance under § 6-18-201.

(f) Nothing in this section shall be construed to prevent the maintenance of a permanent student record by electronic database provided that a copy of the record can be produced for transmittal to another district upon the transfer of the student.

History. Acts 1991, No. 355, § 1; 2005, No. 1998, § 1; 2007, No. 1573, § 26.

Amendments. The 2005 amendment added present (d)(2) and made minor stylistic changes.

The 2007 amendment added (d)(1)(B) and (C), and made related changes.

SUBCHAPTER 10 — PUBLIC SCHOOL STUDENT SERVICES ACT

SECTION.

- 6-18-1001. Title.
- 6-18-1002. Purpose.
- 6-18-1003. Rules and regulations.
- 6-18-1004. School district plan.
- 6-18-1005. Student services program defined.

SECTION.

- 6-18-1006. Occupational and placement specialist.
- 6-18-1007. School student services status report.
- 6-18-1008. Implementation.
- 6-18-1009. Career development.

Effective Dates. Acts 1993, No. 1313, § 45: July 1, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1995, No. 1196, § 37: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby de-

clared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995.”

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1997, No. 1362, § 57: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly, that the provisions of

Section 51 herein will provide the monies necessary to adequately fund the operations of the Department of Education each fiscal year of the 1997-99 biennium and must be made available for the 1997-98 fiscal year. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, Section 51 of this Act shall be in full force and effect from and after its approval by

the Governor. If the bill is neither approved nor vetoed by the Governor, Section 51 shall become effective on the expiration date of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, Section 51 shall become effective on the date the last house overrides the veto. The remaining sections of this Act shall become effective from and after July 1, 1997."

6-18-1001. Title.

This subchapter shall be known and may be cited as the "Public School Student Services Act".

History. Acts 1991, No. 908, § 1.

6-18-1002. Purpose.

It is the intent of the General Assembly to articulate the functions served by each of the components of a program of student services. It is further the intent of the General Assembly that each school district develop and implement a plan for providing student services to all students in the public school system, including area vocational-technical schools. Such plan shall be implemented no later than the 1991-1992 school year. It is the intent of the General Assembly that student services coordinators be given time to fulfill their responsibilities under this subchapter.

History. Acts 1991, No. 908, § 2.

6-18-1003. Rules and regulations.

The State Board of Education is authorized to adopt rules to carry out the intent of this legislation; such rules shall include, but need not be limited to:

(1) A description of the student services program at all educational levels for which the school board of directors is responsible;

(2) Criteria for the development by each school of a building-based student services plan which reflects input from parents, teachers, principals, students, and other agencies;

(3) Identification of alternative student services personnel who do not meet traditional graduate school requirements and who may be used by the school board of directors in providing the recommended student services, including, but not limited to, paraprofessionals, teachers, parents, and representatives of business and industry; and

(4) Establishment of minimum standards for all areas of student services personnel.

History. Acts 1991, No. 908, § 8.

6-18-1004. School district plan.

(a)(1) Each school district shall develop and implement a plan that ensures that individual student services are coordinated in a manner utilizing such techniques as differentiated staffing so as to make maximum use of the contribution of each service.

(2) Only those trained and certified in the appropriate specialty or following a Department of Education's deficiency removal plan will be assigned to carry out the duties of each service.

(b) Each school district plan shall reflect the use of alternative methods of classroom management. Such methods may include, but are not limited to, the following:

- (1) Behavioral contracting;
- (2) Dispute resolution;
- (3) Classroom meetings;
- (4) Logical consequences;
- (5) Assertive discipline;
- (6) Behavior modification; and
- (7) Career and academic counseling.

(c)(1) Each school district plan shall provide for a district-level tracking system for school dropouts and for students who fail to reach proficiency on state-mandated assessments.

(2) The tracking system shall include provisions for student services personnel in all schools to conduct exit interviews of students who are dropping out of school and for follow-up of such students when possible.

(d) The superintendent of a school district not in substantial compliance with the terms of its plan may be requested to appear before the Senate Interim Committee on Education and the House Interim Committee on Education.

History. Acts 1991, No. 908, §§ 4, 5; 1997, No. 1275, § 1; 2005, No. 1949, § 1.

Publisher's Notes. Acts 1997, No. 1275 became law without the Governor's signature.

Amendments. The 2005 amendment added (b)(7); and added "and for students who fail to reach proficiency on state-mandated assessments" to the end of (c)(1).

6-18-1005. Student services program defined.

(a) "Student services program" means a coordinated effort, which shall include, but is not limited to:

(1) Guidance and counseling services, which shall include, but are not limited to:

(A) The availability of individual and group counseling to all students;

(B) Orientation programs for new students at each level of education and for transferring students;

(C) Academic advisement for class selection by establishing academic goals in elementary, middle, and high school;

(D) Consultation with parents, faculty, and out-of-school agencies concerning student problems and needs;

(E) Utilization of student records and files;

(F) Interpretation of augmented, criterion-referenced, or norm-referenced assessments and dissemination of results to the school, students, parents, and community;

(G) The following up of early school dropouts and graduates;

(H) A school-initiated system of parental involvement;

(I) An organized system of informational resources on which to base educational and vocational decision making;

(J) Educational, academic assessment, and career counseling, including advising students on the national college assessments, work-force opportunities, and alternative programs that could provide successful high school completion and postsecondary opportunities for students;

(K) Coordinating administration of the Test for Adult Basic Education or the General Educational Development pretest to students by designating appropriate personnel, other than the school guidance counselor, to administer the tests;

(L) Classroom guidance, which shall be limited to forty-minute class sessions, not to exceed three (3) per day or ten (10) per week; and

(M) Guidance in understanding the relationship between classroom performance and success in school;

(2) Psychological services, which shall include, but are not limited to, the following:

(A) Evaluation of students with learning or adjustment problems;

(B) Evaluation of students in exceptional child education programs;

(C) Consultation and counseling with parents, students, and school personnel to ensure that all students are ready to succeed and that all students are preparing for college and work;

(D) A system for the early identification of learning potential and factors that affect the child's educational performance;

(E) A system of liaison and referrals, with resources available outside the school; and

(F) Written policies that assure ethical procedures in psychological activities;

(3) Visiting teacher and school social work services, which shall include, but are not limited to, the following:

(A) Providing casework to assist in the prevention and remediation of problems of attendance, behavior, adjustment, and learning; and

(B) Serving as liaison between the home and school by making home visits and referring students and parents to appropriate school and community agencies for assistance;

(4) Career services, which shall include, but are not limited to, the dissemination of career education information, appropriate course-

taking patterns, and the effect of taking more rigorous courses so that students are better prepared for college and work success;

(5) Group conflict resolution services, which shall include, but are not limited to, the following:

(A) Educational and social programs that help students develop skills enabling them to resolve differences and conflicts between groups;

(B) Programs designed to promote understanding, positive communication, and greater utilization of a race relations specialist or human relations specialist to assist in the development of intergroup skills; and

(C) Programs designed to prevent bullying;

(6) Health services, which shall include, but are not limited to, the following:

(A) Students with special health care needs, including the chronically ill, medically fragile, and technology-dependent, and students with other health impairments shall have individualized health care plans;

(B)(i) Invasive medical procedures required by students and provided at the school shall be performed by trained, licensed personnel who are licensed to perform the task subject to § 17-87-102(6)(D) or other professional licensure statutes.

(ii) The regular classroom teacher shall not perform these tasks; and

(C) Custodial health care services required by students under individualized health care plans shall be provided by trained school employees other than the regular classroom teachers; and

(7) The distribution of a suicide prevention public awareness program developed for distribution by the Arkansas Youth Suicide Prevention Task Force.

(b) School counselors shall spend at least seventy-five percent (75%) of work time each week providing direct counseling related to students and shall devote no more than twenty-five percent (25%) of work time each week to administrative activities provided that the activities relate to the provision of guidance services.

History. Acts 1991, No. 908, §§ 3, 6; 1997, No. 1275, § 2; 1999, No. 1565, § 1; 2003, No. 681, § 2; 2005, No. 1757, § 2; 2005, No. 1949, § 2; 2007, No. 1573, §§ 27, 28.

Publisher's Notes. Acts 1997, No. 1275 became law without the Governor's signature.

Amendments. The 2005 amendment by No. 1757 substituted "Arkansas Youth" for "interprogram task force established by the Lieutenant Governor's Teenage" in (a)(7).

The 2005 amendment by No. 1949 added (a)(1)(M); added "by establishing

academic goals in elementary, middle, and high school" in (a)(1)(C); in (a)(1)(F), substituted "criterion-referenced and norm-referenced" for "standardized" and inserted "students, parents and"; in (a)(1)(J), inserted "academic assessment," substituted "counseling" for "guidance," "national college assessments, workforce opportunities" for "availability of vocational" and "and postsecondary opportunities" for "opportunities" and deleted "at risk of dropping out of school" from the end; inserted "to ensure ... college and work" in (a)(2)(C); and, in (a)(4), substituted "Career" for "Occupational," in-

serted "appropriate course-taking patterns" and substituted "the effect of taking more rigorous courses so that students are better prepared for college and work success" for "follow-up studies."

The 2007 amendment, in (a)(1), substi-

tuted "augmented, criterion-referenced, or norm-referenced assessments" for "criterion-referenced and norm-referenced testing" in (F), and substituted "forty-minute" for "thirty minute" in (L).

6-18-1006. Occupational and placement specialist.

(a) The occupational and placement specialist shall serve as liaison between employers and the school.

(b) It is the responsibility of the district placement to make written board recommendations to the superintendent for consideration by the district school board of directors concerning areas of curriculum deficiency having an adverse effect on the employability of job candidates or progress in subsequent education experiences.

(c) Furthermore, district administrative personnel shall report to the school board of directors concerning adjustments in program outcomes, curricula, and delivery of instruction as they are made with the use of placement and follow-up information.

(d) The follow-up studies conducted by occupational and placement services shall be on a statistically valid random-sampling basis when appropriate and shall be stratified to reflect the appropriate vocational programs of students graduating from or leaving the public school system.

History. Acts 1991, No. 908, §§ 4, 7.

6-18-1007. School student services status report.

(a) By January 1, 1994, and each year thereafter, the Department of Education shall compile and present to the Governor, the State Board of Education, the Senate Interim Committee on Education, and the House Interim Committee on Education a report outlining monitoring findings and the status of implementing each of the provisions of this subchapter by the various school districts, including which districts are in substantial compliance with the plan required under this subchapter.

(b)(1)(A) By January 1, 1998, the department shall have in place a staffing structure which assures that the department's administration and field service staff are responsible for monitoring the department and local school district implementation and compliance with the provisions of this subchapter.

(B) The department shall employ one (1) or more persons who shall have a minimum qualification of certification as a school counselor.

(2) Each school district shall be responsible for submitting an annual report to the Assistant Director for School Improvement and Instructional Support of the Department of Education outlining its compliance with and implementation of plans for the provisions of this section.

(3)(A) The Commissioner of Education, in consultation with the appropriate assistant director, shall designate an individual or individuals who shall have a minimum qualification of certification as a school counselor to be responsible for coordinating the monitoring of compliance with this section.

(B) The monitoring shall include interviews with administrators, counselors, students, and teachers.

History. Acts 1993, No. 1313, § 38; 1995, No. 1196, § 29; 1997, No. 112, § 12; 1997, No. 1275, § 3; 1999, No. 391, § 14. **Publisher's Notes.** Acts 1997, No. 1275 became law without the Governor's signature.

6-18-1008. Implementation.

(a) The State Board of Education shall cause the Commissioner of Education to designate one (1) employee who shall be responsible for overseeing the implementation of this subchapter.

(b) By January 1, 1994, and each year thereafter, the Department of Education shall compile and present to the Governor, the state board, the House Interim Committee on Education, and the Senate Interim Committee on Education a report outlining the status of implementing each of the provisions of this subchapter by the various school districts.

History. Acts 1997, No. 1362, § 30.

6-18-1009. Career development.

(a) Each school counselor shall provide a career planning process for each student to include career awareness, employment readiness, career information, and the knowledge and skills necessary to achieve career goals.

(b) School counselors shall also encourage parents, during regular parent conferences, to support partnerships in their children's learning and career planning processes.

History. Acts 2005, No. 1949, § 3.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-18-1001 to 6-18-1008

may not apply to this section which was enacted subsequently.

SUBCHAPTER 11 — ELEMENTARY SCHOOL FUND-RAISING

SECTION.

6-18-1101. Legislative findings and declarations.

6-18-1102. Definitions.

SECTION.

6-18-1103. Penalty.

6-18-1104. Procedure for participation.

6-18-1105. [Repealed.]

6-18-1101. Legislative findings and declarations.

The General Assembly hereby finds that the door-to-door selling of fund-raising merchandise by elementary school children should be conducted with adult supervision. Accordingly, it is the intent of the

General Assembly by this subchapter to further ensure the well-being of public school students throughout the State of Arkansas.

History. Acts 1993, No. 525, § 1.

6-18-1102. Definitions.

As used in this subchapter:

- (1) "Adult" means a person age sixteen (16) years or older and approved by the parent;
- (2) "Door-to-door sales" means the selling of merchandise outside of the child's home and off the school grounds;
- (3) "Elementary school student" means a child in kindergarten through grade six (K-6);
- (4) "Fund-raising companies" means businesses, including mail order companies, that assist schools in raising funds in return for a share of all money taken in;
- (5) "Parent" means a parent or legal guardian; and
- (6) "School" means a school or school-sponsored organization such as a parent teacher association (PTA) or booster club.

History. Acts 1993, No. 525, § 2.

6-18-1103. Penalty.

(a) Failure by a district school to comply with the provisions of this subchapter shall result in a ban on all fund-raising activities by the school for one (1) school year.

(b) Failure by a fund-raising company to comply with the provisions of this subchapter shall result in a ban on conducting fund-raising programs with the participating schools for one (1) school year.

History. Acts 1993, No. 525, § 5.

6-18-1104. Procedure for participation.

(a) Schools must provide written notification of the following to parents of all elementary school students who participate in fund-raising programs:

- (1) Student participation in fund-raising programs is voluntary;
- (2) Students who do not participate will not forfeit any school privileges;
- (3) Students may not participate in fund-raising programs without written parental permission returned to school authorities;
- (4) An elementary school student who sells fund-raising merchandise door to door must be accompanied by a parent or an adult; and
- (5) Unless the school provides supervision, parents must accept responsibility for appropriate adult supervision.

(b) A one-page form for parental notification and permission shall be developed by the Department of Education in cooperation with school administrators and the Arkansas Parent Teacher Association.

- (c)(1) Fund-raising companies shall incorporate a safety instructional component as part of all fund-raising programs used by schools.
- (2) A fund-raising company shall have discretion in selecting the methods used to communicate safety.

History. Acts 1993, No. 525, § 3.

6-18-1105. [Repealed.]

Publisher's Notes. This section, concerning certification that schools have met fund-raising requirements, was repealed by Acts 2007, No. 1573, § 58. This section was derived from Acts 1993, No. 525, § 4.

SUBCHAPTER 12 — ARKANSAS STUDENT PUBLICATIONS ACT

SECTION.

- 6-18-1201. Title.
6-18-1202. Written policy.

SECTION.

- 6-18-1203. Students' right of expression.
6-18-1204. Prohibited publications.

6-18-1201. Title.

This subchapter shall be known and cited as the "Arkansas Student Publications Act".

History. Acts 1995, No. 1109, § 1.

6-18-1202. Written policy.

Each school board of directors shall adopt rules and regulations in the form of a written student publications policy developed in conjunction with the student publication advisors and the appropriate school administrators, consistent with the other provisions of this subchapter, which shall include reasonable provisions for the time, place, and manner of distributing student publications.

History. Acts 1995, No. 1109, § 2.

6-18-1203. Students' right of expression.

Student publications policies shall recognize that students may exercise their right of expression, within the framework outlined in § 6-18-1202. This right includes expression in school-sponsored publications, whether such publications are supported financially by the school or by use of school facilities, or are produced in conjunction with a class, except as provided in § 6-18-1204.

History. Acts 1995, No. 1109, § 3.

6-18-1204. Prohibited publications.

Student publications policies shall recognize that truth, fairness, accuracy, and responsibility are essential to the practice of journalism,

and that the following types of publications by students are not authorized:

- (1) Publications that are obscene as to minors, as defined by state law;
- (2) Publications that are libelous or slanderous, as defined by state law;
- (3) Publications that constitute an unwarranted invasion of privacy, as defined by state law; or
- (4) Publications that so incite students as to create:
 - (A) A clear and present danger of the commission of unlawful acts on school premises;
 - (B) The violation of lawful school regulations; or
 - (C) The material and substantial disruption of the orderly operation of the school.

History. Acts 1995, No. 1109, § 4.

SUBCHAPTER 13 — PARENTAL AUTHORIZATION OF QUESTIONNAIRES ACT

SECTION.

6-18-1301. Title.

6-18-1302. Definitions.

6-18-1303. Questionnaires or surveys ad-

ministered in public schools.

6-18-1301. Title.

This subchapter shall be known as the “Parental Authorization of Questionnaires Act”.

History. Acts 2003, No. 1100, § 1.

6-18-1302. Definitions.

As used in this subchapter:

- (1) “Personal identifying information” means:
 - (A) A student’s name;
 - (B) The name of a student’s parent or a member of the student’s family;
 - (C) The address, telephone number, or email address of a student or a member of the student’s family;
 - (D) A personal identification number such as a social security number, driver’s license number, or student identification number of a student or a member of the student’s family; or
 - (E) Any information, the disclosure of which is regulated or prohibited by any other state or federal law or regulation;
- (2) “Public school” means any school operated by a public school district or any open-enrollment public charter school, as defined in § 6-23-103;
- (3) “Public school district” means a local school district, as defined in § 6-20-303 [repealed]; and

- (4)(A) “Questionnaire or survey” means a list or group of questions, responses to which are provided to a person or an entity other than a public school, a public school district, the Department of Education, or any branch of the federal government.
- (B) “Questionnaire or survey” does not include:
- (i) Tests mandated by state or federal law or regulation; or
 - (ii) Standardized scholastic achievement tests.

History. Acts 2003, No. 1100, § 1.

A.C.R.C. Notes. Former § 6-20-303 [repealed] defined “local school district” as follows: “(16) ‘Local school district’ means a geographic area with an elected board of directors which qualifies as a taxing unit

for purposes of ad valorem property taxes under Title 26 of this Code and which board conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly;”.

6-18-1303. Questionnaires or surveys administered in public schools.

- (a) A public school or public school district shall not administer or permit to be administered a questionnaire or survey that requests or requires a student to supply any personal identifying information unless written permission is obtained from the student’s parent or legal guardian prior to the administration of the questionnaire or survey.
- (b) To obtain written permission to administer a questionnaire or survey that requests or requires a student to supply any personal identifying information, the public school or public school district must give the student’s parent or legal guardian an opportunity to review the questionnaire or survey and must give the parent or guardian written notice specifying:
- (1) How the questionnaire or survey will be administered to the student;
 - (2) How the results of the questionnaire or survey will be utilized; and
 - (3) The persons or entities that will have access to the results of the completed questionnaire or survey.
- (c) A student’s parent or legal guardian may refuse to allow the student to participate in any specified questionnaire or survey.

History. Acts 2003, No. 1100, § 1.

SUBCHAPTER 14 — FAMILY RESOURCE CENTERS ACT

- SECTION.
- 6-18-1401. Title.
 - 6-18-1402. Definitions.
 - 6-18-1403. Administration.
 - 6-18-1404. Duties.
 - 6-18-1405. Purposes.

- SECTION.
- 6-18-1406. Implementation plans.
 - 6-18-1407. Grant program.
 - 6-18-1408. Local advisory councils.
 - 6-18-1409. Family resource centers.

Preambles. Acts 2003 (2nd Ex. Sess.), No. 68 contained a preamble which read:

“WHEREAS, the State Child Abuse and Neglect Prevention Board has a proven record as an advocate for the children of the State of Arkansas; and

“WHEREAS, the legislature has determined that, rather than create a new board, commission, or agency to carry out the duties of the Family Resource Centers Act and because of the State Child Abuse and Neglect Prevention Board’s proven record as an advocate for the children of the State of Arkansas, the State Child Abuse and Neglect Prevention Board shall be given the duties under this act,

“NOW THEREFORE, ...”

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 68, § 2: Feb. 2, 2004. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View District No. 25 v. Huckabee*, 351 Ark. 31 (2002) declared our current public education system to be unconstitutional because it is

both inequitable and inadequate; that the Arkansas Supreme Court has set forth the test for a constitutional system to be one in which the state has an ‘absolute duty’ to provide an ‘equal opportunity to an adequate education’; that the Arkansas Supreme Court has instructed the General Assembly to correct these constitutional infirmities with our public education system; and that this act is immediately necessary to provide additional resources to the poorest and most disadvantaged students in the state that face countless nonacademic barriers in their quest for academic success. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-18-1401. Title.

This subchapter shall be known and may be cited as the “Family Resource Centers Act”.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1402. Definitions.

As used in this subchapter:

(1) “Board” means the State Child Abuse and Neglect Prevention Board;

(2) “Core component” means one (1) of the activities or services for children and their families provided by a family resource center pursuant to the school district’s grant application;

(3) “Family resource center” means a center in or near a priority elementary school;

(4) “National school lunch students” means those students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the National School Lunch Act as calculated on October 1 of each year and submitted to the Department of Education;

(5) "Optional component" means one (1) of the activities or services for children or their families provided by a family resource center to satisfy unique community needs;

(6) "Parent" means a parent, legal guardian, or person standing in loco parentis; and

(7) "Priority elementary school" means a public school that meets the following requirements:

(A) Has one (1) or more of grades kindergarten through six (K-6); and

(B) Has fifty percent (50%) or more of the:

(i) Enrolled students that are national school lunch students based on data from the 2002-2003 school year; or

(ii) Enrolled students that are performing below proficient on any or all benchmark examinations based on examination results from the 2002-2003 school year.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1. Act, referred to in this section, is codified as 42 U.S.C. § 1751 et seq.

U.S. Code. The National School Lunch

6-18-1403. Administration.

This subchapter shall be administered by the State Child Abuse and Neglect Prevention Board, as created under § 9-30-104.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1404. Duties.

(a) The State Child Abuse and Neglect Prevention Board shall have the following duties, subject to funding, to:

(1) Determine which schools are priority elementary schools under this subchapter;

(2) Review grant applications and award grants to school districts for family resource centers;

(3)(A) Formulate and assist with the implementation plan to establish a goal of ten (10) family resource centers, subject to funding.

(B) The family resource centers shall be designed to meet the following goals:

(i) Removing nonacademic barriers to student success in school;

(ii) Enhancing the abilities of students to succeed in school; and

(iii) Meeting the needs of children and their families;

(4) Monitor the family resource centers;

(5) Modify the implementation plans as necessary;

(6) Promulgate rules and forms for the administration of this subchapter;

(7) Employ administrative or training staff as needed;

(8) Create local advisory groups;

(9)(A) Provide additional resources to assist school districts in the development of methods and strategies to effectively use poverty funding that they receive more effectively.

(B) The resources may include the following:

- (i) Technical assistance;
- (ii) Organizational assistance;
- (iii) Program assistance;
- (iv) Professional assistance; or

(v) Any other assistance that is determined to be needed to help school districts overcome nonacademic barriers;

(10) Find alternative funding sources for the board and the programs under this subchapter, including, but not limited to, grants or donations; and

(11) Perform other duties as determined by the board.

(b)(1) This subchapter is the framework for schools to address student poverty issues and to remove nonacademic barriers that hinder student performance.

(2) A school district may fund programs or services under this subchapter with moneys received from the Department of Education Public School Fund Account or its successor fund account for poverty index funding, National School Lunch Act student funding, national school lunch students funding, or other funding for students eligible for the free or reduced-price lunch program.

(3) The programs under this subchapter shall be included in any list of approved programs and purposes established by rule of the Department of Education, any successor agency of the department, or the State Board of Education regarding the use of poverty index funding, National School Lunch Act student funding, national school lunch students funding, or other funding for students eligible for the free or reduced-price lunch program.

(4) School districts may use any available funding resources to establish and administer family resource centers under this subchapter, including, but not limited to, federal or state Medicaid moneys or reimbursements.

(c) On or before October 1 of each year, the chair of the board or his or her designee shall report to the House Committee on Aging, Children and Youth, Legislative and Military Affairs, and the Senate Committee on Children and Youth regarding the status of the development of the family resource centers and the outcomes achieved at each operational family resource center.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1405. Purposes.

(a) Family resource centers shall be designed to remove nonacademic barriers to success and to enhance the abilities of the students to succeed in school.

(b) Students and families who are the most economically disadvantaged shall have priority status for receiving services at the family resource centers.

(c) Family resource centers shall work in conjunction with the parent facilitator at the school to avoid duplication of services and to maximize personnel and resources.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1406. Implementation plans.

(a) The implementation plan developed by the State Child Abuse and Neglect Prevention Board with input from the local advisory groups, the local school district, and the priority elementary school shall include an effort to implement a network of family resource centers across the state.

(b) The family resource centers shall be located in or near each priority elementary school.

(c) The implementation plan shall promote identification and coordination of existing resources, including any program that currently exists at the school under a parental involvement plan under § 6-15-1701 et seq.

(d) The implementation plan may include the following components for each site:

(1)(A) Information and referral activities for off-site services to assist participants in having their basic needs met.

(B) Information and referral activities that provide participants with a point of entry to available support networks.

(C) Examples of off-site service referrals include, but are not limited to, the following:

(i) Child care centers;

(ii) Health care providers;

(iii) Counseling services;

(iv) Legal aid;

(v) Food banks;

(vi) Housing and domestic violence shelters; and

(vii) Federal agencies, state agencies, or other entities that provide benefits or services that the participants may need;

(2)(A) Parenting education services to promote the sharing of information, strategies, and tools to help parents with the difficult job of being parents.

(B) Examples of parenting activities include, but are not limited to, the following:

(i) Group-based parent education classes;

(ii) Providing credentialed guest speakers; or

(iii) Making materials on parenting issues available to parents through lending libraries or take-home materials;

(3)(A) Child development activities to strengthen the parent and child bond and to promote optimal development of a child by assisting

parents in the utilization, understanding, and application of early child development activities.

(B) Child development activities shall emphasize child development during the earliest years, specifically zero to three (0-3) years of age.

(C) Child development activities shall address the following:

- (i) Healthy physical development;
- (ii) Cognitive development;
- (iii) Social development; or
- (iv) Emotional development.

(D) Specific strategies to promote child development within family resource centers may include the following:

(i) Referring or establishing quality child care or after-school care programs;

(ii) Providing developmental screenings;

(iii) Educating parents about developmental milestones;

(iv) Providing literacy and pre-literacy activities such as story time;

(v) Providing play groups or “make and take” activities for young children; or

(vi) Establishing toy, book, computer, or technology sharing or lending libraries.

(E) Child development activities may be conducted at the family resource centers through home visiting programs such as Home Instruction for Parents of Preschool Youngsters (HIPPY) or as part of Head Start;

(4) Life skills education to provide an opportunity for participants to strengthen skills and competencies that will help them succeed in everyday tasks to include, but not be limited to, the following:

(A) Developing and maintaining a household budget;

(B) Shopping for and preparing nutritious meals;

(C) Securing and maintaining employment;

(D) Conflict resolution skills;

(E) Goal setting;

(F) Time management;

(G) Decision making; or

(H) Stress management;

(5)(A) Family literacy to connect education for children with literacy instruction for their parents.

(B) Family literacy activities may include the following:

(i) Adult literacy instruction for parents;

(ii) General education diploma instruction for parents;

(iii) Referral to a vocational educational institution or an institution of higher education in the state;

(iv) Information provided on scholarships that might be available to the parent if the parent decides to proceed with higher education;

(v) Child literacy programs; or

(vi) Parent and child literacy activities; and

(6)(A) Informal network building to assist families in developing a network of mutual support, to include caring, resource sharing, emotional support, and social support.

(B) The informal network building program shall be designed to promote activities to help parents get to know one another, raise their social capital, and reduce their isolation.

(C) Examples of informal network building programs include the following:

- (i) Support groups;
- (ii) Social activities;
- (iii) Family celebrations;
- (iv) Recreational activities;
- (v) Holiday gatherings; or
- (vi) Newsletters.

(e) The State Child Abuse and Neglect Prevention Board and the local advisory group shall agree which of the components in subsection (d) of this section are core components or optional components based on the individual implementation plan for each priority elementary school's family resource center.

(f)(1) The State Child Abuse and Neglect Prevention Board shall determine which schools meet the definition of priority elementary schools under this subchapter by July 1, 2004.

(2) The Department of Education and the State Board of Education shall provide all information necessary in the format necessary for the State Child Abuse and Neglect Prevention Board to meet the deadline under this subsection.

(g)(1) The State Child Abuse and Neglect Prevention Board shall select a minimum of ten (10) eligible priority elementary schools for which an implementation plan shall be completed, subject to funding.

(2) The State Child Abuse and Neglect Prevention Board shall complete its implementation plan for a minimum of ten (10) priority elementary schools on or before December 1, 2004, subject to funding.

(h) On or before August 1, 2005, family resource centers shall be established in or adjacent to a minimum of ten (10) priority elementary schools, subject to funding.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1407. Grant program.

(a) A grant program is established to provide financial assistance to school districts with priority elementary schools that establish family resource centers.

(b) The implementation of the grant program under this section is subject to funding.

(c) Local school districts shall submit to the State Child Abuse and Neglect Prevention Board the grant applications and plans for their family resource centers by March 1, 2005.

(d) Beginning July 1, 2005, the board shall award grants to school districts that establish family resource centers at priority elementary schools in their districts.

(e)(1) The board or its designee shall develop a grant application process that includes the following:

(A) An application for a grant under this subchapter;

(B) Instructions about the grant process; and

(C) Scoring procedures to determine the award of the grants.

(2)(A) The grant application process shall include the preparation of a grant application package that is distributed to each priority elementary school and the superintendent of the school district containing each priority elementary school.

(B) The board shall distribute the grant application package no later than December 15, 2004.

(3) The grant application process shall be straightforward and require a minimum amount of paperwork.

(f) In the award of grants under this subchapter, special consideration shall be given to the most impoverished and the lowest performing schools.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1408. Local advisory councils.

(a) Each family resource center shall have a local advisory council that has a central role in designing and delivering services.

(b) Members of the local advisory council shall be representative of the diversity of the students in the priority elementary school that is served.

(c)(1) Except for the initial chair, the members shall determine annually and by majority vote who shall serve as chair.

(2) The superintendent of the priority elementary school shall appoint the initial chair for the purpose of calling the first organizational meeting.

(3) The initial chair shall call an organizational meeting no less than thirty (30) days after all of the members are appointed.

(d)(1) The local advisory council shall meet at such times and places that the chair deems necessary, but no meetings shall be held outside of the county where the priority elementary school is located.

(2) A quorum is not required for the local advisory council to transact business.

(3) All actions of the local advisory council shall be by a majority vote of all members who are present.

(e) The local school district shall provide meeting facilities for the local advisory council.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1409. Family resource centers.

(a) Each family resource center shall have the following, subject to funding:

- (1) A full-time coordinator;
- (2) At least fifteen (15) hours per week of social work services; and
- (3) Sufficient staff to implement the plan submitted with the grant application.

(b) The services provided at the family resource centers shall take into consideration the schedule of the student and the student's family to provide discreet after-hour services when appropriate.

(c) The family resource centers shall work with the local advisory council to give the members notice of all activities and needs of the family resource centers.

History. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

SUBCHAPTER 15 — MANDATED EYE AND VISION SCREENING PROCEDURES AND TESTS FOR CHILDREN

SECTION.

- 6-18-1501. Vision screenings.
6-18-1502. Eye exams.
6-18-1503. Forms.

SECTION.

- 6-18-1504. Training.
6-18-1505. [Repealed.]
6-18-1506. Consultant.

A.C.R.C. Notes. Acts 2003, No. 755, §§ 1-5, as amended by Acts 2005, No. 1438, §§ 2 and 4, and by Acts 2007, No. 138, §§ 1 and 2, and Acts 2007, No. 1243, § 2, provided: "SECTION 1. Intent.

"(a) The General Assembly recognizes:

"(1) The importance of adequate eye and vision care for school age children as an important component to maximizing their educational opportunities and classroom performance; and

"(2) The need for a study to be conducted to evaluate eye and vision care in school age children and to develop a strategic statewide plan regarding the needs and solutions of eye and vision problems of school age children.

"(b) Therefore, the purposes of this act are to create a commission to conduct such a study and to make findings and recommendations to the General Assembly and the Governor.

"SECTION 2. Arkansas Commission on Eye and Vision Care of School Age Children.

"(a)(1) There is established the Arkansas Commission on Eye and Vision Care of

School Age Children to be composed of seventeen (17) members.

"(2) The following members shall be appointed by the Governor:

"(A) Four (4) optometrists;

"(B) Two (2) ophthalmologists;

"(C) One (1) pediatrician;

"(D) One (1) school nurse who is currently working in a public elementary school in this state;

"(E) One (1) person currently working as a principal in a public elementary school in this state; and

"(F) One (1) person currently working as a classroom teacher in a public elementary school in this state.

"(3) The following members shall be appointed by the Speaker of the House of Representatives:

"(A) One (1) family practice physician; and

"(B) One (1) principal of a public elementary school.

"(4) The following members shall be appointed by the President Pro Tempore of the Senate:

“(A) One (1) family practice physician; and

“(B) One (1) teacher in a public elementary school.

“(5) The chairperson of the House Committee on Public Health, Welfare, and Labor shall appoint one (1) member who has a child in a public school in this state.

“(6) The chairperson of the Senate Committee on Public Health, Welfare, and Labor shall appoint one (1) member who has a child in a public school in this state.

“(7) The optometrist serving on the State Board of Health shall also be a member of the board and shall serve as a liaison to the Department of Health.

“(b)(1) The Governor shall designate one (1) of the optometrist appointees to serve as chairperson of the commission.

“(2) The members of the commission shall select from their membership, a vice chairperson, a secretary, and a treasurer.

“(c) The first meeting shall be held within thirty (30) days of the appointment of the members by the Governor, and shall be called by the chairperson.

“(d)(1) A majority of the membership of the commission shall constitute a quorum.

“(2) A majority vote of those members present shall be required for any action of the commission.

“(e) Vacancies shall be filled for the unexpired portion of the term in the same manner as is provided in this section for initial appointments.

“(f) To the extent that moneys are made available for that purpose, the members of the commission may receive expense reimbursement in accordance with Arkansas Code § 25-16-902.

“SECTION 3.

“(a) The Arkansas Commission on Eye and Vision Care of School Age Children shall:

“(1) Study the eye and vision needs of the school age children of Arkansas;

“(2) Study and evaluate vision screening programs in the schools, and their effectiveness;

“(3) Study and evaluate whether children are receiving adequate eye and vision care, and correction of vision problems;

“(4) Study the effects of inadequate vision on the performance of children in the classroom; and

“(5) Continue to develop a strategic statewide plan to ensure adequate eye and vision care of school age children.

“(b) The commission and the Department of Education shall report their findings and updates to the Governor, the Legislative Council, and the House and Senate Interim Committees on Public Health, Welfare, and Labor two (2) times per year.

“(c)(1) The commission may accept any and all donations, grants of money, gifts, appropriations, instruments, equipment, supplies, materials, and services, conditional or otherwise from private sources, from municipal and county governments, from the state, and from the federal government. The commission may use any of its resources to further the commission's purposes and functions.

“(2)(A) There is created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a special revenue fund to be known as the ‘School-Age Children Eye and Vision Care Fund’.

“(B)(i) All moneys collected under this section shall be deposited into the State Treasury to the credit of the fund as special revenues.

“(ii) The fund shall also consist of any other revenues authorized by law.

“(iii) Within thirty (30) days after the effective date of this subchapter, the commission shall transfer all funds currently held to the School-Age Children Eye and Vision Care Fund.

“(C) The fund shall be used by the commission for the purpose of carrying out its responsibilities under this section.

“(D) Any money not used by the commission within a fiscal year to carry out its responsibilities under this section shall be carried forward into the next fiscal year.

“(d) The commission shall develop criteria for the distribution of commission resources to individuals and school districts in need of financial or other assistance necessary to satisfy the requirements of Arkansas Code §§ 6-18-1501 through 6-18-1506.

“(e) In conjunction with the Department of Education, the commission shall develop criteria for passage or failure of a vision screening and criteria for referral for a comprehensive eye examination. The Department of Education shall adopt the criteria as rules promulgated under the Administrative Procedure Act, § 25-15-201 et seq.

“(f) In conjunction with the Department of Education, the commission shall develop standardized forms to be used with regard to conducting and reporting the results of eye and vision screenings.

“(g) The commission and the Department of Education shall evaluate and approve the vision screening instruments, equipment, and other testing items that are used to conduct the eye and vision screenings.

“(h) The commission shall conduct a pilot study to evaluate the pre- and post-performance test scores of school children who have been screened and referred for vision problems. The study shall encompass rural, urban, and empowerment zone school systems.

“SECTION 4. Funding. [Deleted.]

“SECTION 5. The commission shall expire on June 30, 2011.”

Effective Dates. Acts 2005, No. 1438, § 6: Mar. 31, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Commission on Eye and Vision Care of School Age Children expires at the end of the current state fiscal year; that the commission is called upon to undertake new responsibilities with regard to eye and vision screenings for school age children that cannot be completed within that time frame; that this act is immediately necessary because any delay in the effective date of this act would work irreparable harm on the ability of the commission to carry out its responsibilities that are designed to benefit Arkansas school children and enhance their learning opportunities. Therefore, an emergency is declared to exist and this

act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2007, No. 138, § 3: Feb. 21, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Commission on Eye and Vision Care of School Age Children expires at the end of the current state fiscal year; that the commission serves a critical function in ensuring that all Arkansas school children, especially those with eye and vision problems, have an equal opportunity to access the learning opportunities available through a public school education; and that this act is immediately necessary because any delay in the effective date of this act would work irreparable harm on the ability of the commission to carry out its responsibilities in service to Arkansas’ public school system. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-18-1501. Vision screenings.

(a)(1)(A)(i) Beginning with the 2006-2007 school year, all children in prekindergarten (preK), kindergarten (K), grades one (1), two (2), four (4), six (6), and eight (8) and all transfer students shall receive an eye and vision screening.

(ii) This requirement applies to public schools and public charter schools.

(B)(i) The Department of Education shall ensure the provision of all general revenues necessary to access federal funds for eye and vision screenings for all qualified federal healthcare program recipients.

(ii) The school district shall be responsible for all remaining costs associated with eye and vision screenings.

(C) Nothing in this subchapter shall preclude voluntary screening of any educational grade or preclude the referral of any child regardless of grade who the teacher or school nurse feels should be screened or examined.

(2) The responsibility for the enforcement of this section rests equally with each school district or public charter school and the parent or guardian of the child.

(b) An eye and vision screening shall include the following tests, procedures, equipment, and instruments approved by the Arkansas Commission on Eye and Vision Care of School Age Children and the department:

(1) Observation and external inspection of the eye;

(2) Distance visual acuity test using a Snellen Eye Chart at twenty feet (20') or an age or developmentally appropriate chart at ten feet (10') outside a vision screening instrument;

(3) A plus lens visual acuity test using a Snellen Eye Chart at twenty feet (20') or an age or developmentally appropriate chart at ten feet (10') outside a vision screening instrument; and

(4) Visual screening instrument tests, which include:

(A) Lateral muscle balance test at far;

(B) Vertical muscle balance test at far;

(C) Fusion or binocularity at far;

(D) Lateral muscle balance test at near;

(E) Fusion or binocularity at near; and

(F) Color perception.

(c) A child who fails an eye and vision screening shall be rescreened within one (1) month of the initial screening by the school nurse or a school vision care consultant.

(d)(1) An eye and vision screening report shall be sent or given to each parent or guardian of each child who has failed the vision screening test.

(2) The report shall identify whether the child passed or failed the screening and the need for a comprehensive eye and vision examination.

(3) The report shall be mailed or given directly to the parent or guardian by the appropriate school personnel and shall comply with all applicable privacy laws.

History. Acts 2005, No. 1438, § 1.

6-18-1502. Eye exams.

(a)(1) A child who does not pass the eye and vision screening tests, except for the color perception test, shall be required to have a comprehensive eye and vision examination conducted by an optometrist or ophthalmologist within sixty (60) days of receipt of the vision screening report identifying the need for the examination.

(2) The parent or guardian of the child shall be responsible for ensuring that the child receives the appropriate eye and vision examination.

(b)(1) If a child does not receive an appropriate examination, as evidenced by a certificate signed by an optometrist or ophthalmologist acknowledging the examination, then the public school or public charter school where the child is registered shall report the child to the Department of Education.

(2) The local school district shall take such action as necessary to encourage that the child receive an appropriate examination.

(c) A child who has had a comprehensive eye and vision examination conducted by an optometrist or ophthalmologist within six (6) months of an eye and vision screening is not required to have another examination if the parent or guardian of the child presents evidence of a comprehensive eye and vision examination in the form of a certificate signed by an optometrist or ophthalmologist acknowledging the examination.

History. Acts 2005, No. 1438, § 1.

6-18-1503. Forms.

(a) Standardized forms for eye and vision screening reports shall be developed by the Department of Education in conjunction with the Arkansas Commission on Eye and Vision Care of School Age Children and adopted by the department in regulations promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The standardized forms shall include:

- (1) A screening form;
- (2) A parent notification form;
- (3) A doctor report form;
- (4) A form to report the results of screening and examination; and
- (5) Any other forms deemed necessary by the commission.

(c) Every public school and public charter school shall use the standardized forms for eye and vision screening reports.

History. Acts 2005, No. 1438, § 1.

6-18-1504. Training.

The Department of Education, in conjunction with the Arkansas Commission on Eye and Vision Care of School Age Children, shall adopt regulations that establish standards for training school nurses to perform eye and vision screenings.

History. Acts 2005, No. 1438, § 1.

6-18-1505. [Repealed.]

Publisher's Notes. This section, concerning the contents of eye and vision screening reports, was repealed by Acts

2007, No. 1573, § 59. This section was derived from Acts 2005, No. 1438, § 1.

6-18-1506. Consultant.

Each school district is encouraged to select one (1) or more optometrists or ophthalmologists to serve as nonpaid eye and vision care consultants to provide advice and assistance with eye and vision screenings and examinations.

History. Acts 2005, No. 1438, § 1.

SUBCHAPTER 16 — VOLUNTARY UNIVERSAL ACT ASSESSMENT PROGRAM ACT

SECTION.

6-18-1601. Title.

6-18-1602. Definitions.

6-18-1603. Creation.

6-18-1604. Purpose.

6-18-1605. Smart Core and ACT Assessment.

SECTION.

6-18-1606. Implementation.

6-18-1607. Rules.

6-18-1608. Reporting.

6-18-1601. Title.

This subchapter shall be known and may be cited as the "Voluntary Universal ACT Assessment Program Act".

History. Acts 2007, No. 881, § 1.

6-18-1602. Definitions.

As used in this subchapter:

(1) "ACT Assessment" means a test of student educational development that measures student readiness for future learning and that may be used by institutions of higher education as part of their admissions, placement, and scholarship processes and by high schools to improve college and workforce readiness; and

(2) "Smart Core" means the required curriculum that is part of Next Step, a state initiative focused on improving Arkansas public schools for all students so they are prepared for life beyond graduation.

History. Acts 2007, No. 881, § 1.

6-18-1603. Creation.

There is created in the Department of Education the Voluntary Universal ACT Assessment Program to be developed, implemented, and administered by the department as provided in this subchapter.

History. Acts 2007, No. 881, § 1.

6-18-1604. Purpose.

The purpose of the Voluntary Universal ACT Assessment Program is to:

- (1) Improve the college readiness of all students in grade eleven (11);
- (2) Prevent or minimize the continued remediation of nearly fifty percent (50%) of all students entering Arkansas institutions of higher education in one (1) or more subjects because they do not meet the college readiness score of nineteen (19) or higher on the ACT Assessment;
- (3) Advance the number of students, including students of low income, English-language learners, and minority students, taking the ACT Assessment while in grade eleven (11) to increase the number of first-generation college students;
- (4) Increase the college participation rates among all racial and ethnic groups;
- (5) Improve preparation for college and the workforce;
- (6) Improve the course selection patterns of high school students;
- (7) Increase the early identification of college-ready students;
- (8) Support students participating in the Smart Core by providing a baseline for their college and workforce readiness and an opportunity to benefit from earlier remediation such as the College Preparatory Enrichment Program or course selection review; and
- (9) Provide a link between what students have learned, what they need to learn, and what is necessary in order to be college or workforce ready or both by providing expectations and measuring their progress.

History. Acts 2007, No. 881, § 1.

6-18-1605. Smart Core and ACT Assessment.

(a) The General Assembly finds that students who take the recommended Smart Core courses or students who take additional courses after completing the Smart Core continue to perform better on the ACT Assessment than students who take less than the recommended core.

(b) The recommended core courses according to ACT Assessment officials include:

- (1) Four (4) years or more of English;
- (2) Three (3) years or more of mathematics;
- (3) Three (3) years or more of social studies; and
- (4) Three (3) years or more of natural sciences.

History. Acts 2007, No. 881, § 1.

6-18-1606. Implementation.

Beginning with the 2008-2009 school year, the Voluntary Universal ACT Assessment Program may provide each student in grade eleven (11) with the opportunity to take the ACT Assessment while in grade eleven (11) without any charge by using school district funding,

including National School Lunch Act funds, to pay for the exams as approved by the Department of Education.

History. Acts 2007, No. 881, § 1.

6-18-1607. Rules.

The Department of Higher Education and the Department of Education shall develop rules for the administration of this subchapter.

History. Acts 2007, No. 881, § 1.

6-18-1608. Reporting.

The Department of Higher Education and the Department of Education shall submit a combined annual report to the Legislative Council by December 1 of each year that establishes compliance with this subchapter, provides data on the number of participants in the Voluntary Universal ACT Assessment Program, and outlines the impact of this program on the college readiness of high school seniors and the remediation rates at institutions of higher education.

History. Acts 2007, No. 881, § 1.

CHAPTER 19 TRANSPORTATION

SECTION.

- 6-19-101. Regulations and standards generally.
- 6-19-102. Authority to transport students — Vehicles and operators.
- 6-19-103. Directors exempt from liability.
- 6-19-104. Bus drivers generally.
- 6-19-105. Bus drivers — Liability.
- 6-19-106. Bus drivers — Qualifications.
- 6-19-107. Bus drivers — Application for employment — Driving records.
- 6-19-108. Bus drivers — Certification.
- 6-19-109. Bus drivers — Seat belts.
- 6-19-110. Bus drivers — Loading and discharging pupils.
- 6-19-111. Bus regulations — Design and operation.
- 6-19-112. Tax exemption for school vehicles.

SECTION.

- 6-19-113. Registration exemption for buses.
- 6-19-114. Purchase of buses.
- 6-19-115. Bus permit numbers.
- 6-19-116. Bus mirrors.
- 6-19-117. School bus safety equipment.
- 6-19-118. [Repealed.]
- 6-19-119. School bus passengers required to be seated.
- 6-19-120. Operation of a school bus while using a cellular telephone.
- 6-19-121. Approved buses.
- 6-19-122. Safe transportation of school children on buses and other vehicles.
- 6-19-123. Transportation efficiency study.

Cross References. Routes of school buses, declared to be county roads, § 27-66-206.

Speed at which buses may be operated, § 27-51-201.

Effective Dates. Acts 1931, No. 132, § 5: effective on passage.

Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1937, No. 300, § 165: Mar. 23, 1937. Emergency clause provided: "It is hereby ascertained and determined by the General Assembly that the proper regulation of traffic on the highways is a necessary function of the State Government, and that the loss of life and property under the present laws creates an emergency. Therefore, this act being necessary for the immediate preservation of the public peace, health and safety, shall go into effect immediately upon its passage and approval."

Acts 1943, No. 156, § 5: Mar. 4, 1943. Emergency clause provided: "Because of wartime needs and the effect upon the schools, particularly with respect to the securing of adequate personnel for driving school buses, it is necessary for the preservation of public health, safety, and welfare that the provisions of this act take effect immediately; therefore, an emergency is hereby declared to exist and the provisions of this act shall take effect and be in full force from and after its passage and approval."

Acts 1945, No. 31, § 3: Feb. 8, 1945. Emergency clause provided: "Because of the necessity of meeting the demand of the War and that more men eighteen years or over who would otherwise be eligible for school bus drivers are either in the Army or subject to immediate call or cannot meet the qualifications on account of disabilities, and this act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this act shall be in full force and effect from and after its passage and approval."

Acts 1951, No. 43, § 2: Feb. 5, 1951. Emergency clause provided: "Whereas, State-supported institutions of higher learning are being required to purchase license tags; and Whereas, these statutes may effect a savings by the provisions of this bill. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from the date of its approval."

Acts 1953, No. 65, § 2: Feb. 13, 1953. Emergency clause provided: "It is hereby determined by the General Assembly that many school districts own motor vehicles for which the law requires the purchase of licenses, and that such motor vehicles are used for school purposes and should therefore be exempt from the payment of license fees in order to preserve to such school districts funds essential to proper operation. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 646, § 3: Mar. 28, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that in recent months there have been several accidents involving a school bus hitting a child who has just left the bus and is walking in front of the bus; that unless appropriate mirrors are placed on the bus, the driver is in many cases unable to see a small child immediately in front of the bus; that this Act is designed to require suitable mirrors on the bus to enable the driver to see the area immedi-

ately in front of the bus and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 794, § 4: Mar. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that Arkansas Code Annotated 6-19-106(a) is in conflict with federal laws prohibiting discrimination based on age and that this act is necessary for the public health, welfare and safety of the people of this State. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 805, § 8: Mar. 28, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the safety of thousands of children who ride school buses to and from school and school-related activities is largely dependent upon motorists being alerted to the presence of the school bus and that recent research indicates the use of flashing white strobe lights on school buses will contribute significantly to warning motorists of a need for caution; that electric crossing gates will provide greater visibility to a bus driver who can better see students crossing in front of the school bus; that recent incidents where armed individuals have stopped and boarded school buses for the purpose of robbing and terrorizing children on the bus are reflective of a rise in juvenile crime throughout Arkansas and that the immediate implementation of this act is necessary to better address the safety of all school children. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 1999, No. 1123, § 5: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that it is necessary to allow the Department of Education

sufficient time to obtain insurance coverage as required by this act prior to the beginning of the 1999-2000 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2005, No. 1327, § 8: Mar. 29, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that the Division of Public School Academic Facilities and Transportation is charged with the administration of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that the division must be given authority to immediately begin work on developing programs to provide constitutionally appropriate public school academic facilities for the benefit of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1979, § 5: Apr. 11, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that child safety alarm devices need to be installed in vehicles used to transport more than seven (7) passengers and one (1) driver, for programs licensed by the Department of Human Services in order to protect and preserve their health and safety. Therefore, an emergency is declared to exist and this

act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 240 et seq. **C.J.S.** 78 C.J.S., Schools, § 475 et seq.

6-19-101. Regulations and standards generally.

The State Board of Education shall set up such regulations and standards governing the school transportation program in the various school districts of Arkansas as will promote and provide a safe, efficient, and economical system of pupil transportation.

History. Acts 1943, No. 156, § 1; 1945, No. 31, § 1; 1947, No. 420, § 1; A.S.A. 1947, § 80-1810.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-19-102. Authority to transport students — Vehicles and operators.

(a) The board of directors of each school district in the state is authorized to purchase vehicles and otherwise provide means for transporting pupils to and from school, when necessary.

(b) To this end it may hire or purchase such school buses or other vehicles and hire persons to operate them, or make such other arrangements as it may deem best, affording safe and convenient transportation to the pupils, and the board of directors may pay for all such property or services out of the funds of the district.

(c) Any contract with any member of the school district board of directors for the transportation of children or to drive a bus shall be null and void.

(d) A bus or other vehicle used in transporting pupils in one (1) district shall not be used to transport pupils in another district without the consent of the Department of Education.

(e) The buses shall be of such specifications as may be prescribed by uniform rules and regulations of the State Board of Education.

History. Acts 1931, No. 169, § 102; Pope's Dig., § 11545; A.S.A. 1947, § 80-1801; Acts 1999, No. 1078, § 75. **Effective Dates.** Acts 1999, No. 1078, § 92: July 1, 2000.

RESEARCH REFERENCES

Ark. L. Rev. The Contractual and Quasi-Contractual Liability of Arkansas Local Government Units, 20 Ark. L. Rev. 292.

CASE NOTES

ANALYSIS

Contract with Member of Board.
Passenger Seat Belts
Transportation Outside District.

Contract with Member of Board.

The president of a school board contracting to transport pupils was not entitled to compensation therefor after the enactment of this section although the contract in question was entered into before the section became effective. *Ridge v. Miller*, 185 Ark. 461, 47 S.W.2d 587 (1932).

Passenger Seat Belts

Exercising authority under Ark. Const. art. XIV, § 4, the general assembly authorized the department of education to adopt regulations regarding school bus design pursuant to §§ 6-19-111(a)-(b), 6-21-304; the department's specifications, which did not mandate passenger seat belts, were required in every school bus contract in the state pursuant to § 6-19-102(e), assuring manufacturers' compliance. Legislative history touching on the issue revealed that the general assembly considered but rejected mandatory passenger seat belts in school buses several times; consequently, tort claims, which were based on a school bus manufacturer's failure to provide passenger seat

belts, were preempted because the manufacturer complied with state specifications governing school bus design, and the applicable statutory and regulatory framework, while silent on the issue, indicated that general assembly had affirmatively decided not to require passenger seat belts in school buses. *Price v. Thomas Built Buses*, — Ark. —, — S.W.3d —, 2007 Ark. LEXIS 414 (June 28, 2007).

Transportation Outside District.

Former section did not authorize a contract for the transportation of the children of one district to the schools of another district or to use the school funds to pay tuition in the school of another district. *Board of Dirs. v. Holdtorff*, 171 Ark. 668, 285 S.W. 357 (1926) (decision under prior law).

Operation of school bus outside the boundary line of the school district was not authorized by law and decree enjoining operation but permitting bus to pick up and discharge children at the boundary line of the district was proper and did not discriminate against children transferred from an adjacent district. *Brawley School Dist. No. 38 v. Kight*, 206 Ark. 87, 173 S.W.2d 125 (1943).

Cited: *King v. Little Rock Sch. Dist.*, 301 Ark. 148, 782 S.W.2d 574 (1990).

6-19-103. Directors exempt from liability.

(a) It is declared that the directors of all school districts and special school districts in this state in the discharge of their duties as such directors act in a necessary governmental function.

(b) Therefore, no action for personal injuries or damage to property arising out of the acts, conduct, or omissions of such directors in their

official capacities shall be brought or maintained in this state against directors personally.

History. Acts 1943, No. 156, § 3; A.S.A. 1947, § 80-1812.

RESEARCH REFERENCES

Ark. L. Rev. School Board Members' Immunity from § 1983 Suits — Wood v. Strickland, 29 Ark. L. Rev. 554.

CASE NOTES

ANALYSIS

Jurisdiction.
Malice.

Jurisdiction.

The circuit court has jurisdiction to rule on a motion to dismiss based on this section. West Memphis Sch. Dist. No. 4 v. Circuit Court, 316 Ark. 290, 871 S.W.2d 368 (1994).

Malice.

The fact that the school policy was se-

vere could not be made the basis of an action unless malice was shown; damages against the school district, the school administrator or the school board members are never permitted unless they resulted from a malicious motive and action. Wood v. Strickland, 420 U.S. 308, 95 S. Ct. 992, 43 L. Ed. 2d 214 (1975), questioned, McIntosh v. Weinberger, 810 F.2d 1411 (8th Cir. 1987).

6-19-104. Bus drivers generally.

Drivers or operators of school buses shall comply with all laws and regulations pertaining to school bus drivers or operators not in conflict with the provisions of §§ 6-19-101, 6-19-103, 6-19-105, and 6-19-106.

History. Acts 1943, No. 156, § 1; 1945, No. 31, § 1; 1947, No. 420, § 1; A.S.A. 1947, § 80-1810.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-19-105. Bus drivers — Liability.

The driver or operator of a bus used for the transportation of school children to and from school or to and from other school activities as declared by the school district board of directors to be school activities shall be liable in damages for the death of or injury to any school child resulting from a failure of the driver or operator to use reasonable care while transporting pupils.

History. Acts 1943, No. 156, § 2; A.S.A. 1947, § 80-1811.

Cross References. Required to stop at railroad grade crossings, § 27-51-703.

CASE NOTES

Cited: Doe v. Baum, 348 Ark. 259, 72 S.W.3d 476 (2002).

6-19-106. Bus drivers — Qualifications.

(a) No person physically defective or of unsound mind, known to be a habitual drunkard or of immoral habits, or who has been convicted within the past three (3) years of operating a motor vehicle in a reckless manner or while under the influence of intoxicating liquor or narcotic drugs, who has a general reputation of being a fast and reckless operator of motor vehicles without regard to the rights of others, or who is less than nineteen (19) years of age on June 30 following his or her last birthday shall be permitted or employed to act as chauffeur or operator of any school bus, either privately or publicly owned, operated by public school districts and used to transport pupils to and from the public schools in the State of Arkansas.

(b) All school bus drivers employed as provided herein are exempt from the regular chauffeur's license as heretofore required by law; this does not, however, apply to drivers of buses operated for other purpose or purposes than to transport school children.

History. Acts 1943, No. 156, § 1; 1945, 757, § 1; A.S.A. 1947, § 80-1810; Acts No. 31, § 1; 1947, No. 420, § 1; 1985, No. 1989, No. 794, § 1; 1999, No. 391, § 15.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-19-107. Bus drivers — Application for employment — Driving records.

(a) An applicant for employment as a school bus driver shall submit an application prescribed by the Division of Public School Academic Facilities and Transportation to the school district in which he or she seeks employment. The application shall include a statement signed by the applicant that authorizes the release of his or her traffic violation report from the Office of Driver Services to provide the school district with the applicant's driving record.

(b) The office shall report the applicant's driving record without charge to the school district requesting the record.

(c) The applicant's driving record shall be evaluated according to guidelines established by the division prior to permanent employment. The school district may hire an applicant as a bus driver on a temporary basis until official verification of the driving record is received and

evaluated. The school district shall review and maintain a file of semiannual reports on the driving records of school bus drivers.

History. Acts 1985, No. 757, § 2; A.S.A. 1947, § 80-1826; Acts 2005, No. 1327, § 3.

Amendments. The 2005 amendment substituted "Division of Public School Academic Facilities and Transportation" for "Department of Education" in (a); and substituted "division" for "Department of Education" in (c).

6-19-108. Bus drivers — Certification.

(a) An applicant seeking employment as a driver or an operator of a school bus, either privately or publicly owned, is required to take and pass a series of tests as prescribed by the Department of Arkansas State Police and the Division of Public School Academic Facilities and Transportation to determine the physical fitness and driving ability to serve as a school bus driver. The tests shall include a physical examination given by a licensed physician or registered nurse for school bus drivers, an eye test, a written or oral test on rules and regulations of driving, a road test given under the supervision of the department, and such other requirements as may be prescribed by rules and regulations issued jointly by the department and the division for qualifications and fitness of school bus drivers. In addition, the applicant shall participate in and pass a standard bus driver training and preservice behind-the-wheel training program as prescribed by the division.

(b) Upon successful completion of these tests, a certificate shall be issued by the department. The certificate shall be for a two-year period. Upon the expiration of a certificate, the holder thereof shall take a new examination as required by this section before a new certificate may be issued.

(c) No school bus driver shall be employed to act as chauffeur or operator of any school bus to transport children to and from school or school-sponsored activities unless he or she has satisfactorily passed the tests required herein and possesses a current valid certificate therefor. The certificate shall be required in addition to a chauffeur's license or operator's license and such additional qualifications as may be required by the school district board of directors.

(d) Each school bus driver who seeks a renewal of his or her bus driver certificate shall provide proof that he or she has satisfactorily passed a physical examination given by a licensed physician and that he or she has satisfactorily completed an in-service workshop for school bus drivers as prescribed by the division.

(e) In the event that a qualified school bus operator as prescribed in this subchapter shall die, resign or be ill, disabled, or otherwise not available to operate a school bus and the school district board of directors is not able to obtain a qualified bus operator with the certificate required in this section, the school district board of directors may provide a substitute driver to operate a school bus on a temporary basis without a certificate until the next regularly scheduled school bus operator's examination is held in the locality.

- (f) Extracurricular trips shall be made by certified operators only.
- (g) Any person or persons violating the provisions of this section shall be guilty of a Class A misdemeanor.

History. Acts 1963, No. 191, §§ 1-4, 6; 1965, No. 449, § 1; 1985, No. 757, §§ 3, 4; A.S.A. 1947, §§ 80-1821 — 80-1825; Acts 2005, No. 1327, §§ 4, 5; 2005, No. 1994, § 196.

Amendments. The 2005 amendment

by No. 1327 substituted “Division of Public School Academic Facilities and Transportation” for “Department of Education” in (a) and (d).

The 2005 amendment by No. 1994 inserted “Class A” in (g).

6-19-109. Bus drivers — Seat belts.

The driver or operator of a school bus shall wear a seat belt at all times while operating the school bus whenever the bus is so equipped.

History. Acts 1985, No. 757, § 5; A.S.A. 1947, § 80-1827.

CASE NOTES

Construction With Other Law

Legislative history indicated that the general assembly affirmatively decided not to require passenger seat belts in school buses, given its extensive involvement in the regulation of school bus design, in particular, legislation enacted in

1999, § 6-19-109, which required seat belts for school bus drivers, but not passengers, and the fact that the issue came up again in 2001, but died in committee. *Price v. Thomas Built Buses*, — Ark. —, — S.W.3d —, 2007 Ark. LEXIS 414 (June 28, 2007).

6-19-110. Bus drivers — Loading and discharging pupils.

(a) The driver of a school bus shall load and discharge the passengers of the bus at the extreme right side of the paved or improved portion of the road or the highway and at the right curbing when such curbing is maintained on the road or the highway.

(b) As used in this section:

(1) “Motor vehicle” means all vehicles, all movable engines, or machines that are operated or propelled by motor vehicle fuel and that are operated and used for travel on public roads and highways; and

(2) “School bus” means:

(A) A motor vehicle designed to carry more than ten (10) passengers:

(i) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(ii) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities; and

(B) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:

(i) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-

sponsored activities but not used to transport students on any scheduled school bus route; or

(ii) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities.

(c)(1) The school bus driver who observes an operator of a motor vehicle violating § 27-51-1004 or § 27-51-1005 shall report the license plate number, issuing state if different than Arkansas, and a brief description of the vehicle to the superintendent within two (2) hours after the end of the driver's shift for that period of the day.

(2) Within forty-eight (48) hours of the observation, the superintendent shall provide the information to the local prosecuting attorney.

(d) A school bus driver who fails to carry out the provisions of subsection (a) of this section is guilty of a Class C misdemeanor.

(e)(1) The prosecuting attorney who is provided a report under this section shall provide written notice to the superintendent regarding the outcome of the report.

(2) The superintendent shall provide information regarding the outcome of the report to the driver of the school bus who initiated the report.

(f) Nothing in this section shall limit a person who observes an operator of a motor vehicle violating § 27-51-1004 or § 27-51-1005 from reporting the incident to the local prosecuting attorney.

History. Acts 1931, No. 132, §§ 1, 3, 4; Pope's Dig., §§ 3623, 3625, 3626; A.S.A. 1947, §§ 80-1813 — 80-1815; Acts 2005, No. 1825, § 1; 2005, No. 1994, § 242; 2007, No. 718, §§ 1, 2; 2007, No. 999, § 1.

Amendments. The 2005 amendment by No. 1825 made stylistic changes in (b); added (c); and, in present (d), substituted "A school bus driver who" for "Whoever, being the driver of a vehicle or school bus" and inserted "subsection (a) of" preceding "this section."

The 2005 amendment by No. 1994 substituted "Class C misdemeanor" for "misdemeanor and upon conviction shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100) or be imprisoned in the county jail not to exceed thirty (30) days, or both" in present (d).

The 2007 amendment by No. 718 rewrote (c)(1); substituted "observation, the superintendent shall provide the information to the local prosecuting attorney" for "observation deliver the completed form to the superintendent of the school district or his or her designee, who shall promptly provide the report to a local prosecuting attorney" in (c)(2); and added (e) and (f).

The 2007 amendment by No. 999 rewrote (b)(2); substituted "school bus driver" for "driver of a school bus" in (c); substituted "is guilty" for "shall be guilty" in (d); and made stylistic changes.

Cross References. Duty of operator of motor vehicle passing stopped school bus, § 27-51-1004.

6-19-111. Bus regulations — Design and operation.

(a) The State Board of Education by and with the advice of the State Highway Commission shall adopt and enforce regulations not inconsistent with this act to govern the design and operation of all school buses used for the transportation of school children when the buses are owned

and operated by any school district or privately owned and operated under contract with any school district in this state.

(b) Such regulations shall by reference be made a part of any contract with a school district.

(c) Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to the regulations.

(d) Any officer or employee of any school district who violates any of the regulations or fails to include an obligation to comply with the regulations in any contract executed by him on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment.

(e) Any person operating a school bus under contract with a school district who fails to comply with any such regulations shall be guilty of breach of contract, and the contract shall be cancelled after notice by the responsible officers of the school district.

History. Acts 1937, No. 300, § 102; Pope's Dig., § 6759; A.S.A. 1947, § 80-1809.

Meaning of "this act". Acts 1937, No. 300, codified as §§ 6-19-111, 27-35-101 — 27-35-111, 27-36-101, 27-36-102, 27-36-201 — 27-36-204, 27-36-206 — 27-36-212, 27-36-214 — 27-36-220, 27-37-101, 27-37-102, 27-37-202 — 27-37-206, 27-37-301 — 27-37-303, 27-37-305, 27-37-401, 27-37-501, 27-37-502, 27-37-601, 27-49-101 — 27-49-112, 27-49-201 — 27-49-219, 27-50-101, 27-50-102, 27-50-304, 27-50-307, 27-

50-308, 27-50-601 — 27-50-605, 27-50-801, 27-50-804, 27-50-805, 27-51-201, 27-51-202, 27-51-206, 27-51-208 — 27-51-211, 27-51-301 — 27-51-308, 27-51-401 — 27-51-405, 27-51-501 — 27-51-503, 27-51-601 — 27-51-603, 27-51-702, 27-51-703, 27-51-705, 27-51-801 — 27-51-803, 27-51-901 — 27-51-903, 27-51-1201 — 27-51-1205, 27-51-1301 — 27-51-1304, 27-51-1306 — 27-51-1308, 27-51-1401 — 27-51-1405, 27-52-101, 27-52-103 — 27-52-109, 27-53-101 — 27-53-105, 27-53-201 — 27-53-208.

CASE NOTES

Passenger Seat Belts

Exercising authority under Ark. Const. art. XIV, § 4, the general assembly authorized the department of education to adopt regulations regarding school bus design pursuant to §§ 6-19-111(a)-(b), 6-21-304; the department's specifications, which did not mandate passenger seat belts, were required in every school bus contract in the state pursuant to § 6-19-102(e), assuring manufacturers' compliance. Legislative history touching on the issue revealed that the general assembly considered but rejected mandatory passenger seat belts in school buses several times; consequently, tort claims, which

were based on a school bus manufacturer's failure to provide passenger seat belts, were preempted because the manufacturer complied with state specifications governing school bus design, and the applicable statutory and regulatory framework, while silent on the issue, indicated that general assembly had affirmatively decided not to require passenger seat belts in school buses. *Price v. Thomas Built Buses*, — Ark. —, — S.W.3d —, 2007 Ark. LEXIS 414 (June 28, 2007).

Cited: *Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1*, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-19-112. Tax exemption for school vehicles.

(a) All motor vehicles owned and operated by public school districts in Arkansas and used exclusively for school purposes shall be exempt from taxation by the state, county, or municipality.

(b) This exemption is to include license tag fees and charges as well as property taxes.

History. Acts 1927, No. 241, § 1; 1951, No. 43, § 1; 1953, No. 65, § 1; A.S.A. 1947, § 80-1816.

6-19-113. Registration exemption for buses.

No school bus owned by a school district in this state shall be required to be registered under the motor vehicle registration laws of this state.

History. Acts 1963, No. 528, § 1; A.S.A. 1947, § 80-1817.

6-19-114. Purchase of buses.

(a) School buses purchased with loans from the Revolving Loan Fund must meet the prescribed minimum standards and regulations for school buses and must be owned and operated by the district purchasing them.

(b)(1) The purchase of school buses with loans from the fund shall be made upon competitive bids.

(2) Forms for bids shall be approved by the State Board of Education.

(3) The district shall advertise for bids by publication of notice in a newspaper having bona fide circulation in the county where the district is located, one (1) time a week for two (2) weeks, giving the date and place of opening bids.

(4) The first publication of notice shall be not less than thirty (30) days from the date set for opening bids and awarding of contracts.

(c)(1) Any school district which shall desire that the state board purchase buses for that school district, instead of making the purchase as provided in this section, may apply to the state board to make the purchase for it.

(2) If the state board shall receive within a sixty-day period application for the purchase of ten (10) or more buses from one (1) or more districts, the purchase shall, collectively, be made by the state board as is provided in this section for advertising for and accepting bids by a school district, except that the advertisement for bids shall be in some newspaper having a statewide circulation.

History. Acts 1943, No. 176, §§ 5-7; A.S.A. 1947, §§ 80-1806 — 80-1808.

6-19-115. Bus permit numbers.

(a) The State Board of Education is authorized and instructed to establish a system of permit numbers to be used in identifying school buses owned or operated by or in behalf of school districts in this state. The system of permit numbers shall assign an identifying prefix number to each school district with provisions for consecutive numbers thereafter for buses of the district.

(b) Each school district in this state shall be notified of the permit number assigned such school district under this section and shall be furnished instructions for identifying all school buses owned or operated by or in behalf of such school district.

(c) The permit number assigned each school district shall be painted in letters not less than six inches (6") high on both sides and on the rear of all school buses owned by the district or used in behalf of the district. Such permit numbers shall be painted on such buses in compliance with the rules and regulations promulgated by the state board.

(d) No school district in this state shall operate any school bus nor shall any school bus be operated for or in behalf of a school district unless the permit numbers assigned each school district and each bus have been painted thereon in compliance with this section.

(e) Any district failing to comply with this section shall be penalized by the withholding of all transportation aid due the district from the State of Arkansas until the district shall have complied with this section.

History. Acts 1961, No. 243, §§ 1-3;
A.S.A. 1947, §§ 80-1818 — 80-1820.

6-19-116. Bus mirrors.

(a) Every school bus used for the transportation of pupils to or from school shall be equipped with one (1) or more mirrors of sufficient size so positioned on the bus as to permit the driver to see clearly the area immediately in front of the bus.

(b) The Division of Public School Academic Facilities and Transportation is authorized to adopt appropriate rules and regulations as it deems necessary to carry out the intent and purposes of this section.

History. Acts 1979, No. 646, §§ 1, 2; substituted "Division of Public School Academic Facilities and Transportation" for
A.S.A. 1947, §§ 80-1809.1, 80-1809.2; "Department of Education" in (b).
Acts 2005, No. 1327, § 6.

Amendments. The 2005 amendment

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-19-117. School bus safety equipment.

(a) As used in this section, “school bus” means:

(1) A motor vehicle designed to carry more than ten (10) passengers:

(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(B) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities; and

(2) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:

(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or

(B) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities.

(b)(1) Any new school bus whose function involves the loading or discharging of students as passengers shall be equipped with a flashing white strobe light in order to provide greater visibility to drivers in approaching vehicles.

(2) The strobe light shall be in addition to those flasher lights required under § 27-51-1002.

(c) Any new school bus whose function involves the loading or discharging of students as passengers on a regular route shall be equipped with an electric, air, or hydraulic-operated crossing gate in order to prevent a student from crossing in front of the bus in such a way that the school bus driver is unlikely to see him or her.

(d) On and after July 1, 1997, all other school buses shall be retrofitted with a flashing white strobe light and an electric, air, or hydraulic-operated crossing gate for purposes as described in this section.

(e) No later than July 1 of each year, the superintendent of each local school district shall certify to the Division of Public School Academic Facilities and Transportation that the district is in compliance with the provisions of this section.

(f) The Director of the Division of Public School Academic Facilities and Transportation shall cause to be publicized the third week of October as School Bus Safety Week.

History. Acts 1995, No. 805, §§ 1-3; 1997, No. 1302, § 3; 2005, No. 1327, § 7; 2007, No. 999, § 2.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-19-101 — 6-19-116 may not apply to this section which was enacted subsequently.

As enacted, subsections (b) and (c)

began: “On and after March 28, 1995.”

Amendments. The 2005 amendment substituted “Division of Public School Academic Facilities and Transportation” for “Department of Education” in (e) and (f).

The 2007 amendment rewrote (a); substituted “students” for “school children” in (b)(1); in (c), substituted “students” for

“school children,” “a student” for “school children,” and “school bus driver” for “bus driver”; substituted “No later” for “By no later” in (e); and substituted “third week of October” for “first week of each school year” in (f).

6-19-118. [Repealed.]

Publisher’s Notes. This section, concerning student passenger excess liability insurance, was repealed by Acts 2001, No. 1220, § 4. The section was derived from Acts 1999, No. 1123, § 1. For present law, see § 6-21-701 et seq.

Cross References. The School Motor Vehicle Insurance Act, § 6-21-701 et seq.

6-19-119. School bus passengers required to be seated.

(a) As used in this section, “school bus” means:

(1) A motor vehicle designed to carry more than ten (10) passengers:

(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(B) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities; and

(2) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:

(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or

(B) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities.

(b) A school bus driver shall not operate the school bus until every passenger is seated.

(c)(1) The superintendent of each public school in this state is responsible for ensuring that no school bus is scheduled to transport more students than can be reasonably seated in the school bus.

(2) Any superintendent who knowingly violates subdivision (c)(1) of this section shall be guilty of a violation and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).

History. Acts 2001, No. 1744, § 1; 2005, No. 1994, § 67; 2007, No. 999, § 3.

Amendments. The 2005 amendment substituted “means” for “shall mean” in (a); and substituted “violation” for “misdemeanor” in (c)(2).

The 2007 amendment rewrote (a); substituted “A school bus driver” for “The driver of a school bus” in (b); and substituted “is responsible” for “shall be responsible” in (c)(1).

6-19-120. Operation of a school bus while using a cellular telephone.

(a) As used in this section:

(1) "Cellular telephone" means a wireless two-way communication device that requires the operator to dial numbers manually and that:

(A) Includes radio-telephone communications used in cellular telephone service, personal communication service, or the functional equivalent of a radio-telephone communications line used in cellular telephone service or a personal communication service; and

(B) Does not include a citizens band radio or a citizens band radio hybrid; and

(2) "School bus" means every motor vehicle owned by a public school district or operated under contract for a public school district and used for the transportation of children to or from school or school-sponsored activities.

(b) Except as provided in subsection (c) of this section, a person shall not operate a school bus while using a cellular telephone.

(c) This section does not apply to the use of a cellular telephone:

(1) For the purpose of communicating with any of the following regarding an emergency situation:

(A) An emergency system response operator or 911 public safety communications dispatcher;

(B) A hospital or emergency room;

(C) A physician's office or health clinic;

(D) An ambulance or fire department rescue service;

(E) A fire department, fire protection district, or volunteer fire department; or

(F) A police department;

(2) To call for assistance if there is a mechanical breakdown or other mechanical problem impairing the operation of the bus; or

(3) When the school bus is parked.

(d) A person who violates this section is guilty of a violation and may be fined not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).

History. Acts 2003, No. 219, § 1.

6-19-121. Approved buses.

After April 11, 2005, no public school in the state shall purchase nonconforming vans, as defined by the federal motor vehicle safety standards in existence on January 1, 2005, to transport students to or from school or to any school-related activity.

History. Acts 2005, No. 1979, § 1.

6-19-122. Safe transportation of school children on buses and other vehicles.

The Division of Public School Academic Facilities and Transportation or its successor shall undertake measures to provide for the safe, reliable, and efficient transportation of school children, including, but not limited to, the following:

(1) Develop and implement a comprehensive maintenance management program for all preventive and other repair or replacement maintenance activities performed, including operating and maintenance documentation, on all public school buses; and

(2) Ensure that the uniform comprehensive maintenance management program is adopted and followed by all school districts.

History. Acts 2005, No. 1979, § 2;
2007, No. 999, § 4.

Amendments. The 2007 amendment
deleted former (1)(B).

6-19-123. Transportation efficiency study.

(a) The Bureau of Legislative Research in conjunction with the Division of Public School Academic Facilities and Transportation shall conduct a study of the transportation of public school students by public school districts in the state with an emphasis on public school districts resulting from consolidation or annexation, isolated school districts, and public school districts with declining enrollment to assess whether the time and cost of public school district transportation for students enrolled in those public school districts can or should be minimized.

(b) The study shall include, without limitation, the following:

(1) How public school districts administer student transportation routes and number of school buses to accommodate student needs;

(2) How regional or local geography influences time and cost of school bus routes;

(3) How student characteristics and density or scarcity of student population impact the time and cost of student transportation; and

(4) A review of other states' practices concerning student transportation.

(c) The bureau shall report its findings and recommendations to the House Interim Committee on Education and the Senate Interim Committee on Education before October 1, 2008.

(d) The report shall include, without limitation, the following:

(1) A description of the boundaries of all public school districts resulting from consolidation or annexation;

(2) A list of public school districts for which a boundary adjustment or other alternative would reduce the public school district's transportation time or cost;

(3) A detailed description of each alternative for reducing a public school district's transportation time or cost, including without limitation for each alternative:

(A) The number of hours of transportation time saved per student presented by public school district and by statewide total; and

(B) The total cost saved under the alternative presented by public school district and by statewide total; and

(4) A description of the proposed implementation of any alternative, including without limitation:

(A) The cost of implementation; and

(B) For any boundary change considered in the alternative, the impact, if any, of the boundary change on an affected public school

district's compliance with the State Board of Education's standards for accreditation, academic achievement, and financial management.

History. Acts 2007, No. 1604, § 1.

CHAPTER 20

FINANCES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. MANAGEMENT AND APPORTIONMENT OF FUNDS GENERALLY.
3. EQUITABLE SCHOOL FINANCE SYSTEM ACT.
4. DISTRICT FINANCES.
5. FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN.
6. LOCAL SCHOOL DISTRICT ISOLATED FUNDING.
7. SCHOOL LUNCH PROGRAM.
8. REVOLVING LOAN PROGRAM — GENERAL PROVISIONS.
9. REVOLVING LOAN PROGRAM — STATE BOARD OF EDUCATION CERTIFICATES.
10. REVOLVING LOAN PROGRAM — ALTERNATIVE STATE FINANCING.
11. REVOLVING LOAN FUND — EMERGENCY REVOLVING LOAN FUND ACCOUNT. [REPEALED.]
12. DISTRICT BONDS.
13. ANNUAL REPORTS OF EXPENDITURES. [REPEALED.]
14. STATE AID FOR CONSTRUCTION.
15. INSURANCE ACT.
16. STATE ASSISTANCE TO SCHOOL DISTRICTS IN DISTRESS. [REPEALED.]
17. HIGH COST TRANSPORTATION FUNDING FORMULA ACT. [REPEALED.]
18. AUDITS.
19. ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM.
20. TRACKING AND ACCOUNTING OF INTERSCHOOL ATHLETIC PROGRAM FUNDS.
21. TRACKING AND ACCOUNTING OF INTERSCHOOL SCHOLASTIC ACTIVITY FUNDS.
22. ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004.
23. PUBLIC SCHOOL FUNDING ACT OF 2003.
24. SUPPLEMENTAL SCHOOL DISTRICT FUNDING ACT OF 2003. [REPEALED.]
25. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT.
26. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FINANCING ACT OF 2007.

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 85
et seq.

C.J.S. 78 C.J.S., Schools, § 17 et seq.
79 C.J.S., Schools, § 323 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-20-101. [Repealed.]
- 6-20-102. Guidance program — State aid.
- 6-20-103. Electronic warrants transfer system.
- 6-20-104. Reimbursement for educational services provided in juvenile detention facilities.

SECTION.

- 6-20-105. [Repealed.]
- 6-20-106. Amendment 74 rules and regulations.
- 6-20-107. Educational cost reimbursement prohibition.

A.C.R.C. Notes. Acts 1989 (2nd Ex. Sess.), No. 1 provided: "SECTION 1. CONSENT ORDER AUTHORIZED. The State Board of Education is hereby authorized to enter into a consent order which directs the Arkansas Department of Education to make payments to the three Pulaski County School Districts and the Joshua Intervenors in the case pending in the United States District Court, Eastern District of Arkansas, Western Division, styled Little Rock School District vs. Pulaski County Special School District, et al, No. LR-C-82-866, of not more than \$131,000,000 (excluding required state funding for the majority to minority students, existing magnet schools, and magnet adjustments ordered prior to June 28, 1989) above the amount of total state aid owed to the three Pulaski County School Districts for the 1988-89 fiscal year. Any such consent order must provide that such amounts shall be the total maximum liability of the State in the case. Any such consent order must also provide that the State shall not be obligated to contribute to the construction, renovation, or operation of magnet schools not in existence on the effective date of this legislation.

"SECTION 2. If a consent order as authorized under Section 1 is entered by the U.S. District Court, the following actions shall take place:

"(A) Immediately there shall be transferred on the books of the Chief Fiscal Officer of the State, the State Treasurer and the State Auditor from the Budget Stabilization Trust Fund to the Public School Fund the sum of \$19,685,539.

"(B) For the fiscal year ending June 30, 1990, the Department of Education shall from time to time as needed, certify to the State Treasurer and the Chief Fiscal Officer of the State, the amount of funds disbursed for desegregation expenses and the hold-harmless provisions under the consent order. Upon the receipt of such certification, the State Treasurer, after making those deductions as set out in Arkansas Code 19-5-202(b)(2)(B), shall also deduct up to, but not to exceed in total for FY90, the sum of \$17,100,000 plus an amount equal to any payments to the three districts under formula adjustment provisions of the settlement agreement from the net general revenues and transfer this amount to the Public School Fund.

"(C) For the fiscal year ending June 30, 1991, the Department of Education shall from time to time as needed, certify to the State Treasurer and the Chief Fiscal Officer of the State, the amount of funds disbursed for desegregation expenses and the hold-harmless provisions under the consent order. Upon the receipt of such certification, the State Treasurer, after making those deductions as set out in Arkansas Code 19-5-202(b)(2)(B), shall also deduct up to, but not to exceed in total for FY91, the sum of \$21,500,000 plus an amount equal to any payments to the three districts under formula adjustment provisions of the settlement agreement from the net general revenues and transfer this amount to the Public School Fund.

"SECTION 3. Section 23 of Act 199 of 1989 First Extraordinary Session is hereby repealed, and the funds transferred pursuant to that section shall immediately be restored to the Budget Stabilization Trust Fund.

"SECTION 4. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

"SECTION 5. The Arkansas General Assembly respectfully requests and urges the Special Master and the Court to disapprove the following items as contained in the "Pulaski County School Desegregation Settlement Agreement" executed by the parties in Little Rock School District v. Pulaski County Special School District, et al., in March, 1989, and to be filed with the United States District Court for the Eastern District of Arkansas, as follows:

"1) Article II, Paragraph J, Recognition of Autonomy;

"2) Article III, Paragraph M, School Construction;

"3) Article IV, Paragraph C, Reserved Issue; and

"4) Article VII, Paragraph D, Housing.

"SECTION 6. EMERGENCY CLAUSE. It is hereby found and determined by the General Assembly of the State of Arkansas that the State has been found liable for constitutional violations in Little Rock School District vs. Pulaski County Special School District et al., No. LR-C-82-866; that the State has exhausted its appeals on the issue of liability; that the State's potential monetary liability for desegregation

costs to the Pulaski County School Districts has not been fully established but could exceed \$131,000,000 over amounts already ordered; that the parties have proposed a consent order establishing the State's maximum additional liability at not more than \$131,000,000; that legislative authorization to the State Board of Education to enter into the consent order is sought; and that the transfer of additional funds to the Public School Fund is essential to hold harmless the school districts of the State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1989 (2nd Ex. Sess.), No. 2, § 1, as amended by Acts 1997, No. 112, § 29, provided: "Section 1. Fund Created. There is hereby created on the books of the State Treasurer, State Auditor, and Chief Fiscal Officer of the State, a fund to be known as the 'Court-Ordered Desegregation Trust Fund', which such fund shall consist of funds made available by the General Assembly and is to be used for paying expenses of court-ordered desegregation, including but not limited to the legal expenses of the Department of Education in representing the State of Arkansas and the State Board of Education in desegregation suits and additional public school costs for selected school districts, as required or ordered by a federal court to be paid by the State of Arkansas. A reporting of all expenditures by the Department of Education shall be made quarterly to the Office of the Governor, the Arkansas Legislative Council, and the House and Senate Interim Committees on Education.

"At the end of each month, the Department of Education shall certify to the State Treasurer, the amount of obligations incurred for desegregation expenses determined to be the responsibility of the State of Arkansas by a federal court. Upon the receipt of such certification, the State Treasurer shall distribute the amount certified from the Court-Ordered Desegregation Trust Fund.

"SECTION 2. (a) There is hereby appropriated, to be payable from the Court-Ordered Desegregation Trust Fund to the Department of Education for additional expenses of desegregating public schools, as required by federal court order, includ-

ing expenses incurred by the Department of Education in representing the State of Arkansas and the State Board of Education in desegregation cases, the sum of \$9,360,000 for each year of the biennial period ending June 30, 1991, to be used specifically to defray the continuation of the state's legal obligations in Little Rock School District v. Pulaski County Special School District established prior to the settlement agreement.

"SECTION 3. There is hereby appropriated, to be payable from the Court-Ordered Desegregation Trust Fund, to the Department of Education for loans authorized by the court to the Little Rock School District, the sum of \$6,000,000 for the 1989-91 biennium.

"SECTION 4. There is hereby appropriated to the Department of Education, to be payable from the Court-Ordered Desegregation Trust Fund, to make the following payments, the sum of ...

"\$5,650,350 to the Little Rock School District (LRSD)

"\$ 675,278 to the Pulaski County Special School District (PCSSD)

"\$ 499,911 to the North Little Rock School District (NLRSD)

"\$6,825,539 TOTAL APPROPRIATED

"SECTION 5. There is hereby appropriated, to be payable from the Court-Ordered Desegregation Trust Fund, to the Department of Education for payment of the State's share of legal fees and an advance of the LRSD share of legal fees to the Legal Defense and Education Fund, Inc. the sum of \$2,750,000.

"SECTION 6. There is hereby appropriated to the Department of Education to be payable from the Court-Ordered School Desegregation Trust Fund the following amounts to be paid to LRSD, PCSSD, and NLRSD:

	1989-90	1990-91
"Little Rock School District	\$7,950,000	\$8,218,500
"Pulaski County Special School District	3,500,000	3,500,000
"North Little Rock School District	389,025	389,025
"TOTAL PAYMENT	\$11,839,025	\$12,107,525

"SECTION 7. The Arkansas General Assembly respectfully requests and urges the Special Master and the Court to consider removing the following items as contained in the "Pulaski County School Desegregation Settlement Agreement" executed by the parties in Little Rock School District v. Pulaski County Special School District, et al., in March, 1989, and to be filed with the United States District Court for the Eastern District of Arkansas, as follows:

"1) Article II, Paragraph J, Recognition of Autonomy;

"2) Article III, Paragraph M, School Construction;

"3) Article IV, Paragraph C, Reserved Issue; and

"4) Article VII, Paragraph D, Housing.

"SECTION 8. Consent order authorized. The State Board of Education is hereby authorized to enter into a consent order which directs the Arkansas Department of Education to make payments to the three Pulaski County School Districts and the Joshua Intervenors in the case pending in the United States District Court, Eastern District of Arkansas, Western Division, styled Little Rock School District vs. Pulaski County Special School District, et al., No. LR-C-82-866, of not more than \$131,000,000 (excluding required state funding for the existing magnet schools, magnet adjustments, and majority to minority students ordered prior to June 28, 1989) above the amount of total state aid owed to the three Pulaski County School Districts for the 1988-89 fiscal year. Any such consent order must provide that such amounts shall be the total maximum liability of the state in the case. Any such consent order must also provide that the state shall not be obligated to contribute to the construction, renovation or operation of magnet schools not in existence on the effective date of this legislation.

"SECTION 9. Funds appropriated by this act shall not be disbursed unless and until a consent order as authorized and limited by Section 8 hereof is entered by the U.S. District Court for the Eastern District of Arkansas, Western Division, in the case of Little Rock School District v. Pulaski County Special School District, et al., No. LR-C-82-866.

"SECTION 10. Arkansas Code 26-52-302 is hereby amended to read as follows:

"26-52-302. Additional one percent tax levied.

"(a) In addition to the excise tax levied upon the gross proceeds or gross receipts derived from all sales by the Arkansas Gross Receipts Act, § 26-52-101 et seq., there is levied an excise tax of one percent (1%) upon all taxable sales of property and services subject to the tax levied in that act. This tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of all other Arkansas gross receipts taxes. In computing gross receipts or gross proceeds as defined in § 26-52-103(a)(4), a deduction shall be allowed for bad debts resulting from the sale of tangible personal property.

"(b) A portion of the one percent (1%) tax levied by this section shall be raised and collected for educational purposes and shall be used to finance the Court-Ordered Desegregation Trust Fund. All taxes received by the director from tax levied by this section shall be deposited in the Revenue Holding Fund Account. The total amount appropriated and required each fiscal year from the Court-Ordered Desegregation Trust Fund shall be determined and this amount shall be certified by the Chief Fiscal Officer of the State to the State Treasurer as special revenues from such gross receipts taxes. The State Treasurer shall transfer the funds certified as special revenues from the Revenue Holding Fund Account to the Court-Ordered Desegregation Trust Fund and the remaining funds shall be transferred to the general revenue fund account of the State Apportionment Fund.

"SECTION 11. Arkansas Code 26-53-107 is hereby amended to read as follows:

"26-53-107. Additional one percent tax levied.

"(a) In addition to the excise tax levied upon the privilege of storing, using, or consuming tangible personal property within this state by the Arkansas Compensating Tax Act, § 26-53-101 et seq., there is levied an excise tax of one percent (1%) upon all tangible personal property subject to the tax levied in that act, and the tax shall be collected, reported, and

paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of state compensating taxes.

"(b) A portion of the one percent (1%) tax levied by this section shall be raised and collected for educational purposes and shall be used to finance the Court-Ordered Desegregation Trust Fund. All taxes received by the director from tax levied by this section shall be deposited in the Revenue Holding Fund Account. The total amount appropriated and required each fiscal year from the Court-Ordered Desegregation Trust Fund shall be determined and this amount shall be certified by the Chief Fiscal Officer of the State to the State Treasurer as special revenues from such taxes. The State Treasurer shall transfer the funds certified as special revenues from the Revenue Holding Fund Account to the Court-Ordered Desegregation Trust Fund and the remaining funds shall be transferred to the general revenue fund account of the State Apportionment Fund.

"SECTION 12. Arkansas Code 19-6-201 (1) and (2) are hereby amended to read as follows:

"(1) Sales taxes, as enacted by Act 386 of 1941, known as 'The Arkansas Gross Receipts Act of 1941' and all laws supplemental or amendatory thereto, § 26-52-101 et seq. except as provided by § 26-52-302(b).

"(2) Use taxes as enacted by Act 487 of 1949, known as 'The Arkansas Compensating Tax Act of 1949', Act 222 of 1971, and all laws supplemental or amendatory thereto, § 26-53-101 et seq. except as provided by § 26-53-107(b).

"SECTION 13. There is hereby appropriated to the Department of Education to be payable from the Court-Ordered Desegregation Trust Fund, to reimburse the Public School Fund in such amounts as are required to ensure that the per student dollar amount of minimum foundation program aid paid to the Little Rock School District will not be reduced below the per student dollar amount paid to the Little Rock School District during the 1988-89 school year and for other formula adjustment provisions of the settlement agreement, in a sum not to exceed \$3,000,000 each fiscal year of the biennial period ending June 30, 1991.

"SECTION 14. In the event two or more acts are enacted at the Second Extraordinary Session of the Seventy-Seventh General Assembly providing different methods of funding payments to be made to the three Pulaski County school districts and the Joshua Intervenors in the case pending in the U. S. District Court, Eastern District of Arkansas, Western Division, styled Little Rock School District v. Pulaski County Special School District, et al., No. LR-C-82-866, the provisions of Sections 1 through 13 of this act shall take effect only in the event that the other act or acts are declared invalid by a federal court, the Arkansas Supreme Court, or by order of a lower state court, if such order is not appealed or if appealed, is not reversed on appeal. Unless such event occurs, the provisions of Sections 1 through 13 of this act shall have no force or effect.

"SECTION 15. Act 902 of 1989 and Act 286 of the First Extraordinary Session of the Seventy-Seventh General Assembly are hereby repealed.

"SECTION 16. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

"SECTION 17. EMERGENCY. It is hereby found and determined by the General Assembly that the court in Little Rock School District v. Pulaski County Special School District has found that the state of Arkansas is responsible for payment of a portion of the cost of desegregation in the three school districts in Pulaski County; that the Board of Education and the respective boards of directors of the three school districts have entered into a settlement agreement which specifically defines and limits the state's liability; that the effectiveness of the settlement agreement is contingent on the enactment of legislation to fund the state's financial obligations as set forth in the agreement; that under the terms of the agreement, if funds are provided to meet the state's obligations under the settlement agreement, the state will be dismissed as a defendant in the litigation; that it is urgent that monies be made available as soon as possible to meet the state's financial obligations as prescribed in the settlement agreement and to thereby fix and limit the state's

liability in this matter. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Preambles. Acts 1939, No. 15 contained a preamble which read: "Whereas, the State Board of Education of Arkansas, a department of the State Government under the authority of Act No. 162 of the General Assembly of the State of Arkansas of the year 1937 has issued and in the future will issue bonds to raise funds to aid needy school districts of the State...."

Effective Dates. Acts 1939, No. 15, § 3: approved Jan. 25, 1939. Emergency clause provided: "It is found as a fact that many of the school districts of Arkansas are in financial distress, as a result of which the efficient operation of public schools and the proper maintenance of the school buildings is endangered, which retards the proper education and affects the health and safety of the school children and teachers; that the passage of this act will help the sale of the said bonds by the State Board of Education and thereby provide more funds for needy school districts. It is, therefore, necessary that this act take immediate effect for the preservation of the public peace, health and safety. An emergency is therefore declared and this act shall take effect and be in force immediately after its passage."

Acts 1977, No. 687, § 13: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1977 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1977 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1977."

Acts 1993, No. 540, § 9: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the Seventh-Ninth General Assembly that the effective operation of Arkansas public schools is dependent upon the immediate receipt of funds, and this Act will alleviate problems attendant to the delay in the receipt of funds. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1328, § 5: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that failure to implement this act will cause uncertainty and undue hardship to local school districts in planning for the next school year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

Acts 1999, No. 1429, § 37: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 1999, No. 1549, § 33: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that not to do so would create confusion in the state's public school districts. Therefore, an emer-

gency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: “It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state’s public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2005, No. 1763, § 2: Apr. 7, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain out-of-state parties are seeking to make legal

claims for educational resources otherwise to be provided to Arkansas public schools; that these legal claims may jeopardize or negatively impact the adequacy of public education funding and resources; and that immediate passage of this act is necessary to ensure the appropriate management of educational services and related costs associated with juveniles placed in a residential or inpatient facility for any care or treatment, including psychiatric treatment. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-20-101. [Repealed.]

Publisher’s Notes. This section, concerning the State Board of Education bonds used as security for deposit of funds, was repealed by Acts 1999, No.

1549, § 1. The section was derived from Acts 1939, No. 15, § 1; A.S.A. 1947, § 80-936.

6-20-102. Guidance program — State aid.

(a) A school district may initiate a minimum of a one-half ($\frac{1}{2}$) time guidance program and receive a pro rata share of the regular state aid for a counselor who has completed six (6) semester hours in guidance and counseling.

(b) Aid for additional years will be continued provided that the counselor makes six (6) semester hours’ progress each year until twenty-one (21) semester hours in guidance and counseling are acquired.

History. Acts 1977, No. 687, § 7; A.S.A. 1947, § 80-467.

6-20-103. Electronic warrants transfer system.

(a)(1) The Chief Fiscal Officer of the State, the Treasurer of State, and the Auditor of State shall establish an electronic warrants transfer system to distribute certain funds directly to an account in a financial institution, as designated by the public school district’s treasurer.

(2) The determination of the categories of funds to be distributed shall be made by the Commissioner of Education.

(3)(A) The public school district shall accept distributions by the electronic warrants transfer system.

(B)(i) A public school district with a district treasurer may choose to have funds first distributed to the county treasurer or directly to the school district treasurer.

(ii) If a school district with a district treasurer chooses direct distribution of funds to the school district treasurer, the State of Arkansas shall forward all state and federal funds for the school district to the district treasurer, whether they are in the form of state warrants or electronic warrants transfers.

(iii) If a school district uses the county treasurer as its treasurer, the State of Arkansas shall forward all state and federal funds for the district to the county treasurer, whether they are in the form of state warrants or electronic warrants transfers.

(b) The Chief Fiscal Officer of the State, the Treasurer of State, and the Auditor of State, by joint rules, shall establish the standards and procedures for administering the system, to include the requirement that the electronic warrants transfer shall be in such form that a single instrument shall serve as the electronic warrants transfer.

(c) A single electronic warrants transfer may contain payments to multiple public school districts, appropriations, characters, and funds.

History. Acts 1993, No. 540, §§ 1-5; **Publisher's Notes.** Acts 1993, No. 540, 1995, No. 233, § 10; 1995, No. 1296, § 25. is also codified as § 19-4-408.

6-20-104. Reimbursement for educational services provided in juvenile detention facilities.

(a) As used in this section, "juvenile detention facility" means any facility operated by a political subdivision of the state for the temporary care of juveniles alleged to be delinquent, or adjudicated delinquent, who require secure custody in a physically restricting facility. Under § 9-27-330(a)(11), such juvenile detention facility must provide educational and other rehabilitative services to adjudicated delinquents who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period not to exceed ninety (90) days.

(b)(1) Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's resident school district of his or her whereabouts and within five (5) days after the juvenile is released shall certify the detention dates to the district.

(2) The school district where the facility is located and the juvenile detention facility shall jointly complete an application for funding to be based on the approved student capacity of the facility and shall submit the application to the Department of Education.

(3) If the amount of state funds due cannot be agreed upon by the juvenile detention facility and the school district where the facility is

located, an appeal shall be made to the department. All decisions rendered shall be final.

(c) The department shall issue regulations for the effective implementation of this section, including:

(1) The classification of juvenile detention centers as approved residential treatment facilities;

(2) The designation of the juvenile detention facility and the district where the juvenile detention facility is located as responsible for educating the student consistent with federal and state laws for any period of time the student is being held in the facility; and

(3) The designation of the resident district of a student who is being held in a juvenile detention facility as responsible for the timely transfer of a student's educational records to the district where the juvenile detention facility is located upon notification by the court of the student's placement in a juvenile detention facility.

History. Acts 1995, No. 667, §§ 1-4; sitions for delinquent juveniles, § 9-27-1999, No. 1318, § 2. 330.

Cross References. Alternative dispo-

6-20-105. [Repealed.]

Publisher's Notes. This section, concerning millage rates, was repealed by Acts 2001, No. 1220, § 5. The section was derived from Acts 1995, No. 1328, § 1.

6-20-106. Amendment 74 rules and regulations.

Due to pending public school finance litigation, before any rules and regulations pursuant to the implementation of Arkansas Constitution, Amendment 74, are reviewed by the Administrative Rules and Regulations Committee of the Legislative Council and adopted by the Department of Education, such proposed rules and regulations shall be reviewed by the Litigation Reports Oversight Committee of the Legislative Council.

History. Acts 1999, No. 1429, § 28.

6-20-107. Educational cost reimbursement prohibition.

(a) As used in this section, "juvenile" means a person who is eighteen (18) years of age or younger.

(b) The Department of Education, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(1) At the time of placement:

(A) The juvenile qualifies as disabled under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(B) Payment is required under the Individuals with Disabilities Education Act;

(2) The department authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the department has approved the facility's educational program; and

(3)(A) Each educational program authorization precedes the placement.

(B) If the educational program is not authorized prior to placement, the department, public school districts, or open-enrollment public charter schools shall not be responsible for education or other related costs, nor shall they be subject to any order to pay for educational or other related costs.

(c) The department, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an in-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(1) The department authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the department has approved the facility's educational program; and

(2)(A) Each educational program authorization precedes the placement.

(B) If the educational program is not authorized prior to the placement, the department, public school districts, or open-enrollment public charter schools shall not be responsible for education or other related costs, nor shall they be subject to any order to pay for educational or other related costs.

(d) The liability of the department, a public school district, or an open-enrollment public charter school for the educational costs or other related costs described in subsections (b) and (c) of this section shall be limited to the lesser of:

(1) The reimbursement rate established by the department for a juvenile placed in a residential or inpatient facility; or

(2) The normal and customary educational cost reimbursement rate of the state in which a juvenile is placed in an out-of-state residential or inpatient facility as determined by the department.

(e) This section shall not apply to a juvenile placed in an Arkansas juvenile detention facility as defined in § 6-20-104.

(f) Nothing in this section shall be construed to require payment by the department, a public school district, or an open-enrollment public charter school for educational costs and other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care or treatment, including psychiatric treatment, prior to April 7, 2005.

SUBCHAPTER 2 — MANAGEMENT AND APPORTIONMENT OF FUNDS GENERALLY

SECTION.

- 6-20-201. [Repealed.]
- 6-20-202. Land Sales Fund.
- 6-20-203. Public School Fund — Creation and management.
- 6-20-204. Public School Fund — Sources and purpose.
- 6-20-205. Public School Fund — Arkansas History Textbook Revolving Fund.
- 6-20-206. Public School Fund — Priority of funding.
- 6-20-207 — 6-20-209. [Repealed.]
- 6-20-210. Pulaski County desegregation.
- 6-20-211. Public School Fund — Carry-over balances.
- 6-20-212. Desegregation expenses.
- 6-20-213, 6-20-214. [Repealed.]
- 6-20-215. General school fund — Sources generally.

SECTION.

- 6-20-216. General school fund — Apportionment generally.
- 6-20-217. General school fund — Funds of doubtful application.
- 6-20-218. Federal funds and National Forest Reserve Fund — Apportionment to counties in national forests.
- 6-20-219. [Repealed.]
- 6-20-220. [Repealed.]
- 6-20-221. County treasurer's commission on school funds — Exceptions.
- 6-20-222. Deposit of school funds — Security.
- 6-20-223. Noncredit remedial courses.
- 6-20-224. Federal turnback funds.
- 6-20-225. Loan or transfer repayment.

Preambles. Acts 1933, No. 104 contained a preamble which read: "Whereas, moneys now received through the Federal Government from the National Forest Reserve Fund are distributed in section 133 of Act No. 169 of 1931 to the various school districts of the counties, and,

"Whereas, the local school tax of school districts situated in National Forest Reserves cannot be levied against the land consisting of the National Forest Reserve which results in a great reduction in the school revenues of such districts situated in National Forest Reserves,

"Now, therefore ... "

Acts 1967, No. 229 contained a preamble which read: "Whereas, the Arkansas History Textbook provided for in Act 229 of 1963 will be published prior to the end of the current fiscal year, and

"Whereas, the proceeds of the sale of the Arkansas History Textbook will accrue to the Public School Fund, and

"Whereas, it is anticipated that additional copies will be printed and sold in the 1967-69 biennium, and

"Whereas, the State Board of Education and the Arkansas History Commission will procure a copyright for said Arkansas History Textbook ... "

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emer-

gency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1933, No. 55, § 2: approved Feb. 25, 1933. Emergency clause provided: "This Act being for the relief of financially distressed school districts of the State, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage."

Acts 1933, No. 104, § 3: Mar. 16, 1933.

Acts 1939, No. 88, § 2: Feb. 15, 1939.

Acts 1943, No. 179, § 6: approved Mar. 6, 1943. Emergency clause provided: "It

has been found and it is hereby declared that most of the local school districts of the State are in immediate need of funds to permit such districts to pay their outstanding accounts before the end of the school year and thereby preserve their credit, and that the operation of this act will enable such districts to immediately improve their financial condition; and, for said reason, it is hereby declared that this act should become effective without delay in order to preserve the public peace, health and safety. An emergency, therefore, exists and this act shall take effect and be in force from and after its passage."

Acts 1961, No. 242, § 5: July 1, 1961.

Acts 1967, No. 229, § 5: Mar. 6, 1967. Emergency clause provided: "It is hereby found and determined that the General Assembly has, by a vote of two-thirds of the members elected to both houses, voted to extend the regular session of the 66th General Assembly, as authorized in the Constitution; that under the provisions of Amendment 7 to the Constitution, enactments of the General Assembly that do not have an emergency clause do not become effective until 90 days after the date of final adjournment of the General Assembly; that the extended session of the General Assembly may not adjourn in time for this Act to take effect prior to July 1, 1967, thereby depriving the agency for which funds are appropriated herein of necessary operating funds to commence the next fiscal biennium; and, in order that the appropriation made herein may be available on July 1, 1967, the General Assembly determines that the immediate passage of this Act is necessary. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval, provided that the appropriation authorized herein shall not be available until July 1, 1967."

Acts 1975, No. 648, § 3: July 1, 1975.

Acts 1975, No. 651, § 3: July 1, 1975.

Acts 1977, No. 955, § 20: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly that the amendments to the Revenue Stabilization Law are essential to the continued operation of State Government. Therefore, an emergency is hereby declared to exist, and this

Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1977."

Acts 1983, No. 521, § 3: Aug. 1, 1983.

Acts 1983, No. 597, § 3: July 1, 1983.

Acts 1983 (Ex. Sess.), No. 83, § 3, and No. 84, § 3: July 1, 1984.

Acts 1985, No. 558, § 4: Mar. 25, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law is not clear with regard to the right of a county treasurer to receive a commission on public school funds handled by him for a district which is not administered in his county; that in some counties of the State both the county treasurer in which school funds are collected and the county treasurer of the county in which the district is administered are taking a full commission on such school funds; that the county treasurer of the county in which funds are collected but in which the school district is not administered actually performs very little service to the district; that to allow treasurers of two counties to take a commission on any particular public school funds places an unfair burden on such funds and on the districts for which such funds are collected; that it is the purpose and intent of this Act to clarify the law to assure that in the case of a school district located in two or more counties, only the county treasurer of the county in which the district is administered is entitled to a commission on the funds of such district and that this Act should be given effect at the earliest possible date to avoid this inequity. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 333, § 3: Mar. 19, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that under present law only the treasurer of a county in which a school district is administered is entitled to receive a commission on school funds; that there are some counties in the State in which no school district is administered and consequently the treasurers of such counties receive no commission on school funds; that the school districts in the respective counties should pay a propor-

tional part of the salaries and expenses of the county treasurer's office in each county and that this Act is designed to correct this situation and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 401, § 19: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the effectiveness of this act on July 1, 1991 is essential to the operation of the Arkansas Department of Education and the various school districts of this state; that the various changes reflected in this act require implementation on a day certain before the beginning of the upcoming school year; and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1995, No. 1194, § 38: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 1999, No. 1429, § 37: July 1, 1999. Emergency clause provided: "It is hereby

found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 1999, No. 1549, § 33: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that not to do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2003 (1st Ex. Sess.), No. 51, § 28: July 1, 2003, except that Sections 24 and 25 are effective May 9, 2003. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2003 is essential to the operation of the agency for which the appropriations in this Act are provided, and that the General Assembly recognizes the important contribution to education made by the Pygmalion Commission on Nontraditional Education, and that recognizing and identifying how the educational system is failing a child early enough to provide meaningful intervention is necessary to improve the educational outcomes for at-risk students, and the Pygmalion Commission shall expire on June 30, 2003 unless the General Assembly continues the Commission by further act, and that Section 24 of this Act

shall become effective immediately upon its passage and approval, and that the General Assembly further recognizes the financial hardships placed on school district resources if the required salary increase authorized by The Educator Compensation Act of 2001 is to continue, and that Section 25 of this Act shall become effective immediately upon its passage and approval due to the economic downturn of state revenues and insufficient resources to provide school districts with sufficient funds to implement the required salary increase, and that in the event of an extension of the Regular Session, the delay in the effective date of the remaining sections of this Act beyond July 1, 2003, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety: (1) Section 24 and Section 25 of this act shall become effective on: (A) The date of its approval by the Governor; (B) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (C) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto; and (2) All other sections of this act shall become effective on July 1, 2003."

Acts 2003 (2nd Ex. Sess.), No. 98, § 10: Feb. 10, 2004. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on the date of its passage and approval is essential to the operation of the agency for which the appropriations in

this Act are provided due to the November 2002 Arkansas Supreme Court decision regarding the Arkansas system of public schools, and that in the event of an extension of the Second Extraordinary Session, the delay in the effective date of this Act beyond the date of its passage and approval could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2131, § 38: July 1, 2005. Emergency Clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005."

6-20-201. [Repealed.]

Publisher's Notes. This section, concerning the allocation of funds to districts, was repealed by Acts 1999, No. 1078, § 76 and No. 1549, § 2. The section was derived from Acts 1979, No. 598, §§ 2, 3; A.S.A. 1947, §§ 80-712, 80-713.

Effective Dates. For the effective date of the repeal of this section, see the effective date notes at the beginning of the subchapter.

6-20-202. Land Sales Fund.

When the Treasurer of State receives the following proceeds from the Commissioner of State Lands, it shall be the duty of the Treasurer of State to set aside that amount to the credit of the Land Sales Fund:

(1) The proceeds from the sale of all lands that have been or hereafter may be granted by the United States to this state and not otherwise appropriated by the United States to this state, and also all moneys, stocks, bonds, lands, and other property now belonging to any fund for purposes of education;

(2) The net proceeds of all sales of lands and other property and effects that may accrue to this state by escheat, from sales of estrays, from unclaimed dividends, or from distributive shares of the estates of deceased persons;

(3) Any proceeds of the sale of public lands which may have been, or may be, paid over to the state, Congress consenting;

(4) All the net proceeds of the sales of all state land, including land sold for taxes; and

(5) All grants, gifts, or devises.

History. Acts 1931, No. 169, § 127; 1933, No. 55, § 1; Pope's Dig., §§ 8635, 11569, 13859; A.S.A. 1947, § 80-701.

Publisher's Notes. This section may be affected by § 19-5-101 et seq.

CASE NOTES**Nature of Fund.**

Revenues accruing under this section and all revenues standing to the credit of the Permanent School Fund (now Public School Fund) are property of the state for

public school purposes only; and the State Board of Education, in investing these funds, acts as an agent of the state. State ex rel. Holt v. State Bd. of Educ., 195 Ark. 222, 112 S.W.2d 18 (1937).

6-20-203. Public School Fund — Creation and management.

(a)(1) At the end of each fiscal year, the Treasurer of State shall transfer to the credit of the Public School Fund all unappropriated balances of the Land Sales Fund that have been or may be made to this state and that are not otherwise appropriated by the terms of the grant, gift, or devise.

(2) The balances shall be securely invested and preserved as the Public School Fund of the state and shall be the common property of the state for public school purposes only. The fund shall remain inviolate and intact, and the interest thereon only shall be expended for the maintenance of the schools of the state.

(b) All moneys belonging or owing to the fund, as mentioned in subsection (a) of this section, or accruing as revenues therefrom, shall be paid directly into the State Treasury and shall not be paid out except on a warrant of the Auditor of State.

(c) Under the direction of the State Board of Education, the Auditor of State shall draw his or her warrants on the Treasurer of State for the disbursement of those funds for those purposes.

History. Acts 1931, No. 169, §§ 9, 127, 128; 1933, No. 55, § 1; Pope's Dig., §§ 8635, 11449, 11569, 11570, 13859; A.S.A. 1947, §§ 80-701 — 80-703; Acts 1999, No. 1549, § 3.

Publisher's Notes. This section may be affected by § 19-5-101 et seq.

RESEARCH REFERENCES

A.L.R. Procedural issues concerning public school funding cases. 115 A.L.R.5th 563.

CASE NOTES

ANALYSIS

Construction of School.
Loans.
Nature of Fund.

Construction of School.

Permanent School Fund (now Public School Fund) was not available for the construction of a school for the blind. *Walls v. State Bd. of Educ.*, 195 Ark. 955, 116 S.W.2d 354 (1938).

Loans.

The Permanent School Fund (now Public School Fund) could not properly be diminished by its use; while funds could be loaned, only accruing interest could be used, it being presumed that money would be repaid or be refunded. *Walls v. State Bd. of Educ.*, 195 Ark. 955, 116 S.W.2d 354 (1938).

While Permanent School Fund (now Public School Fund) could be loaned so that interest could accrue, it could not be borrowed upon the credit of the state, wherein the resources or revenues of the state could be pledged, directly or indirectly, for the repayment. *Walls v. State Bd. of Educ.*, 195 Ark. 955, 116 S.W.2d 354 (1938).

Nature of Fund.

Revenues accruing under § 6-20-202 and all revenues standing to the credit of the Permanent School Fund (now Public School Fund) are property of the state for public school purposes only; the State Board of Education, in investing these funds, acts as an agent of the state. *State ex rel. Holt v. State Bd. of Educ.*, 195 Ark. 222, 112 S.W.2d 18 (1937).

6-20-204. Public School Fund — Sources and purpose.

(a) The annual interest and income derived from the Public School Fund, the annual revenue of the state that is set apart by law for general purposes, and all other revenue and funds that may come into the State Treasury for such purposes shall constitute the Public School Fund of the state.

(b) Each year the Public School Fund shall be apportioned for the support of public schools as provided by law.

History. Acts 1931, No. 169, § 129; Pope's Dig., § 11571; A.S.A. 1947, § 80-704; Acts 1999, No. 1549, § 4.

Publisher's Notes. This section may be affected by § 19-5-101 et seq.

6-20-205. Public School Fund — Arkansas History Textbook Revolving Fund.

(a) The State Board of Education is authorized to publish and offer for sale an Arkansas history textbook copyrighted in the name of the state board and the Arkansas History Commission.

(b) The state board shall establish a procedure for marketing the textbook and shall establish a sale price schedule.

(c) Net proceeds received from the sale of the Arkansas history textbook shall be deposited to the credit of the Public School Fund.

(d) There is established in the Public School Fund an Arkansas History Textbook Revolving Fund for the purpose of expediting the purchase and sale of an Arkansas history textbook.

History. Acts 1963, No. 229, §§ 1, 2; 1967, No. 229, §§ 1, 2; A.S.A. 1947, §§ 80-704.1, 80-704.2. **Publisher's Notes.** This section may be affected by § 19-5-101 et seq.

6-20-206. Public School Fund — Priority of funding.

In determining the allocation of available funds to the various programs in the Public School Fund, the State Board of Education shall consider those line items necessary to provide an equitable and adequate education to be of highest priority above all other programs and commitments.

History. Acts 1977, No. 955, § 19; A.S.A. 1947, § 80-704.3; Acts 1999, No. 391, § 16; 2005, No. 2121, § 11. **Amendments.** The 2005 amendment rewrote this section.

6-20-207 — 6-20-209. [Repealed.]

Publisher's Notes. Former §§ 6-20-207 — 6-20-209, concerning the public school fund: aid to districts with orphanages, correction of apportionment upon change of county lines, and vouchers drawn at times provided by resolutions, were repealed by Acts 1999, No. 1549, §§ 5-7. The sections were derived from the following sources:

6-20-207. Acts 1943, No. 53, § 1; 1965, No. 10, § 1; 1975, No. 651, § 1; 1983, No. 521, § 1; A.S.A. 1947, § 80-714.

6-20-208. Acts 1931, No. 169, § 131; Pope's Dig., § 11573; A.S.A. 1947, § 80-716.

6-20-209. Acts 1943, No. 179, § 1; A.S.A. 1947, § 80-717.

6-20-210. Pulaski County desegregation.

For the fiscal year ending June 30, 2004, and for each fiscal year thereafter, the Department of Education shall, from time to time as needed, certify to the Treasurer of State and the Chief Fiscal Officer of the State the amount of funds disbursed or approved to be disbursed by the department for desegregation expenses under the Pulaski County School Desegregation Settlement Agreement. Upon the receipt of the certification and after making those deductions as set out in § 19-5-202(b)(2)(B), the Treasurer of State shall also deduct from the net general revenues the amount certified and transfer this amount to the

Department of Education Public School Fund Account, there to be used exclusively for payment of or reimbursement for expenses incurred from the Department of Education Public School Fund Account under the agreement.

History. Acts 2003 (1st Ex. Sess.), No. 51, § 9; 2003 (2nd Ex. Sess.), No. 98, § 7.
A.C.R.C. Notes. Acts 2007, No. 932, § 2, provided: "Pulaski County Desegregation Consultants.

"The Department of Education in consultation with the Attorney General shall hire consultants on the following basis:

"(1) The consultants shall be qualified as experts in public school district desegregation;

"(2) The department shall hire the consultants prior to October 1, 2007;

"(3) The purposes for employing the consultants are to determine whether and in what respects any of the three (3) Pulaski County school districts:

"(A)(i) Are unitary;

"(ii) If a school district has been declared unitary or has been declared unitary in some respects, the consultants shall not examine the school district on those issues; and

"(B) Have complied with their respective consent decrees; and

"(4) The consultants shall understand and acknowledge in their work and research that their testimony in court may be required."

Publisher's Notes. Former § 6-20-210, concerning estimates of available moneys and lists of school closing dates, was repealed by Acts 1993, No. 294, § 13. The section was derived from Acts 1943, No. 179, § 2; A.S.A. 1947, § 80-718.

6-20-211. Public School Fund — Carryover balances.

The State Board of Education shall have the authority to budget carryover balances in the Public School Fund.

History. Acts 1995, No. 1194, § 25; 1999, No. 1549, § 8.

Publisher's Notes. Former § 6-20-211, concerning withholding excess funds,

was repealed by Acts 1993, No. 294, § 13. The section was derived from Acts 1943, No. 179, § 2; A.S.A. 1947, § 80-718.

6-20-212. Desegregation expenses.

For the fiscal year ending June 30, 2005, and for each fiscal year thereafter, the Department of Education shall from time to time, as needed, certify to the Treasurer of State and the Chief Fiscal Officer of the State, the amount of funds disbursed or approved to be disbursed by the department for desegregation expenses under any desegregation settlement agreement. Upon the receipt of the certification, the Treasurer of State, after making those deductions as set out in § 19-5-202(b)(2)(B), shall also deduct from the net general revenues the amount certified and transfer this amount to the Department of Education Public School Fund Account, there to be used exclusively for payment of or reimbursement for expenses incurred from the account under any desegregation settlement agreement.

History. Acts 2005, No. 2131, § 12.

Publisher's Notes. Former § 6-20-212, concerning advance apportionments, was repealed by Acts 1993, No. 294, § 13.

The section was derived from Acts 1943, No. 179, §§ 3, 4; 1953, No. 384, § 17; A.S.A. 1947, §§ 80-719, 80-720.

6-20-213, 6-20-214. [Repealed.]

Publisher's Notes. These sections, concerning suits to recover moneys owed and the Auditor of State's report, were repealed by Acts 1993, No. 294, § 13. The sections were derived from:

6-20-213. Acts 1931, No. 169, § 10;

Pope's Dig., § 11450; A.S.A. 1947, § 80-705.

6-20-214. Acts 1931, No. 169, § 11; Pope's Dig., § 11451; A.S.A. 1947, § 80-706.

6-20-215. General school fund — Sources generally.

The general school fund of any county shall be composed of all money received from the Public School Fund of the state, such fines, penalties, and other money as shall be accrued to the general school fund in accordance with the law, and any appropriation from the general revenue of the county for public school purposes.

History. Acts 1931, No. 169, § 132; 721; Acts 1993, No. 294, § 13; 1999, No. Pope's Dig., § 11574; A.S.A. 1947, § 80-1549, § 9.

RESEARCH REFERENCES

A.L.R. Procedural issues concerning public school funding cases. 115 A.L.R.5th 563.

6-20-216. General school fund — Apportionment generally.

The county treasurer shall apportion the general school fund of the county based upon the average daily membership of the school districts within the county. Each school district within the county shall receive its pro rata share of the general school fund of the county.

History. Acts 1931, No. 169, § 36; A.S.A. 1947, § 80-723; Acts 1993, No. 294, § 13; 1999, No. 1078, § 77; 2005, No. 433, § 1.

Amendments. The 2005 amendment substituted "treasurer" for "quorum court".

Effective Dates. Acts 1999, No. 1078, § 92; July 1, 2000.

Cross References. County treasurer custodian of school funds, § 14-15-803.

Use, purposes of school fund, Ark. Const., Art. 14, § 2.

6-20-217. General school fund — Funds of doubtful application.

The quorum court of any county is authorized to place all funds about which there is a doubt as to their proper application to the credit of the general school fund in the county treasury. These funds shall be apportioned by the county treasurer among the school districts of the county based upon the average daily membership of each school district.

History. Acts 1931, No. 169, § 135; Pope's Dig., § 11577; A.S.A. 1947, § 80-722; Acts 1999, No. 1078, § 78; 2005, No. 433, § 2.

Amendments. The 2005 amendment inserted "by the county treasurer" and substituted "based upon the average daily membership of each school district" for "on

the same basis as the state school funds are apportioned.” **Effective Dates.** Acts 1999, No. 1078, § 92; July 1, 2000.

6-20-218. Federal funds and National Forest Reserve Fund — Apportionment to counties in national forests.

- (a) All moneys received by the counties for the support of the public schools from the federal government from the income from the national forests shall be paid by the county treasurer upon receipt from the Treasurer of State only to the school districts that lie in or partially in national forest boundary lines.
- (b) The amount of money to be apportioned by the school authorities to the school districts, as provided in this section, shall be in proportion to the number of acres of national forest lands lying within the boundaries of each school district.

History. Acts 1933, No. 104, § 1; Pope’s Dig., § 11575; A.S.A. 1947, § 80-726.

CASE NOTES

Conflict with Federal Law. Taxes Act, with school districts. Altus-Denning School Dist. No. 1 v. Franklin County, 568 F. Supp. 95 (W.D. Ark. 1983). This section could not be construed to require counties to share the federal funds, under the Payments in Lieu of

6-20-219. [Repealed.]

Publisher’s Notes. This section, concerning state transportation aid funds and prohibited operation of certain school buses, was repealed by Acts 1997, No. 1133, § 2. The section was derived from Acts 1961, No. 242, §§ 1, 2; 1975, No. 648, § 1; 1979, No. 196, § 1; 1983, No. 597, § 1; 1983 (Ex. Sess.), No. 83, § 1; 1983 (Ex. Sess.), No. 84, § 1; A.S.A. 1947, §§ 80-735, 80-736; Acts 1991, No. 401, § 1; 1991, No. 840, § 1. For present law, see § 6-20-1701 et seq.

6-20-220. [Repealed.]

Publisher’s Notes. This section, concerning county treasurer’s report to the county board of education or board’s designee, was repealed by Acts 1995, No. 233, § 21. The section was derived from Acts 1931, No. 169, § 136; Pope’s Dig., § 11578; A.S.A. 1947, § 80-724; Acts 1993, No. 294, § 13.

6-20-221. County treasurer’s commission on school funds — Exceptions.

(a) Unless otherwise provided by law, the county treasurer shall be allowed a commission of two percent (2%) on all school funds paid into his or her hands, except on borrowed money, or the proceeds of the sale of bonds and all other funds on which the law shall not allow commission. In the case of a school district that is composed of area in two (2) or more counties, only the county treasurer of the county in which the school district is administered shall be allowed a commission on the funds of the school district unless the school district has a district

treasurer, in which case the county treasurer collecting the school district funds shall be allowed a commission on the funds of that school district.

(b) The county school funds shall pay such proportional part of the salaries and expenses of the county treasurer's office as the total county treasurer's commissions on school funds bear to the total county treasurer's commissions on all funds.

History. Acts 1931, No. 169, § 137; § 1; A.S.A. 1947, § 80-725; Acts 1987, No. Pope's Dig., § 11579; Acts 1985, No. 558, 333, § 1.

6-20-222. Deposit of school funds — Security.

(a) All general deposits of school funds in banks shall be secured by general obligation bonds of the United States, by bonds, notes, debentures, or other obligations issued by an agency of the United States Government, by bonds of the State of Arkansas, or by bonds of a political subdivision thereof which has never defaulted on any of its obligations, in an amount at least equal to the amount of the deposit, or by a bond executed by a surety company authorized to do business in the State of Arkansas, the surety on the bond to be approved by the Commissioner of Education.

(b) If the bank selected by the school district board of directors as a depository of its funds shall be unable to secure the school deposit as set out in this section, it shall be authorized to accept the funds as a preferred deposit, and in the event of insolvency, the preferred deposit shall be paid in full before other bank deposits are paid.

History. Acts 1931, No. 169, § 74; Pope's Dig., § 11510; A.S.A. 1947, § 80-728; Acts 1995, No. 402, § 2. **Cross References.** Investments of public funds permitted, § 19-1-504.

CASE NOTES

ANALYSIS

Deposit.
Depositories.

Deposit.

This section must be construed together with § 23-33-303 [repealed] but no particular form of writing is required. *Wasson v. Pledger*, 192 Ark. 1006, 96 S.W.2d 8 (1936). See *Boone County Bd. of Educ. v. Taylor*, 185 Ark. 869, 50 S.W.2d 241 (1932); *Taylor v. Gregory Special Sch. Dist.*, 187 Ark. 110, 58 S.W.2d 420 (1933).

Letter of cashier of bank designated as

county depository of school funds specifically stating that deposit was accepted under the provisions of this section and would be treated as a preferred deposit was a substantial compliance with the law so that law existing at the time became a part of the contract. *Wasson v. Pledger*, 192 Ark. 1006, 96 S.W.2d 8 (1936).

Depositories.

County board of education could designate all the three banks in county as depositories for the school funds of the county. *Wasson v. Pledger*, 192 Ark. 1006, 96 S.W.2d 8 (1936).

6-20-223. Noncredit remedial courses.

- (a) Noncredit remedial courses of instruction taken by a student at a state-supported institution of higher education in this state to qualify for unconditional admission to the institution or to another state-supported institution of higher education in this state may be included within the meaning of public school purposes.
- (b) Nothing in this section shall be interpreted as authorizing a state-supported institution to receive direct payments from the Department of Education or from a school district for noncredit remedial courses taken by a student.

History. Acts 1999, No. 375, § 1.

6-20-224. Federal turnback funds.

Any federal mineral leasing funds, federal forest reserve funds, federal flood control funds, or any similar turnback funds in the State Treasury for which the eligible county or school district cannot be identified may be transferred to the Department of Education Public School Fund Account and used for any lawful school purpose.

History. Acts 1999, No. 1429, § 25.

6-20-225. Loan or transfer repayment.

Notwithstanding the provisions of § 19-5-501 et seq., or any law to the contrary, up to two million dollars (\$2,000,000) received by the Public School Fund from the Budget Stabilization Trust Fund either by loan or transfer during the 1996-1997 fiscal year, shall be repaid from time to time by transfer by the Treasurer of State from either the Public School Support Fund or the Public School Fund, or its appropriate fund account, solely from revenues generated by the income tax surcharge levied by § 6-20-312(c) [repealed] after the provisions of § 19-6-481(b) [repealed] have been achieved.

History. Acts 1999, No. 1429, § 31.

Section 6-20-312(c) was repealed by Acts 1997, No. 1173, § 2.

A.C.R.C. Notes. The section creating the “Public School Support Fund”, § 19-6-481, was repealed by Acts 1997, No. 1173, § 3.

SUBCHAPTER 3 — EQUITABLE SCHOOL FINANCE SYSTEM ACT

SECTION.	SECTION.
6-20-301 — 6-20-311. [Repealed.]	6-20-321. [Repealed.]
6-20-312. [Repealed.]	6-20-322. [Repealed.]
6-20-313 — 6-20-318. [Repealed.]	6-20-323 — 6-20-327. [Repealed.]
6-20-319, 6-20-320. [Repealed.]	

Publisher's Notes. Sections 6-20-301 to 6-20-318, 6-20-320, and 6-20-321 of former subchapter 3, the School Finance Act, were repealed by Acts 1995, No. 917, § 15. Section 6-20-319 remains a part of the new subchapter 3. The sections were derived from the following sources:

6-20-301. Acts 1983 (Ex. Sess.), No. 34, § 1; A.S.A. 1947, § 80-850.10.

6-20-302. Acts 1983 (Ex. Sess.), No. 34, § 2; 1985, No. 460, § 1; 1985, No. 789, § 1; A.S.A. 1947, § 80-850.11; Acts 1987, No. 662, § 1; 1989, No. 24, §§ 1, 4; 1989, No. 148, §§ 1, 2; 1991, No. 401, §§ 2, 3; 1993, No. 294, § 13; No. 968, § 1; No. 1070, §§ 2, 3; 1994 (1st Ex. Sess.), No. 1, § 1.

6-20-303. Acts 1983 (Ex. Sess.), No. 34, § 12; A.S.A. 1947, § 80-850.21.

6-20-304. Acts 1983 (Ex. Sess.), No. 34, § 13; A.S.A. 1947, § 80-850.22.

6-20-305. Acts 1983 (Ex. Sess.), No. 34, § 3; A.S.A. 1947, § 80-850.12; Acts 1993, No. 294, § 13.

6-20-306. Acts 1983 (Ex. Sess.), No. 34, § 4; 1985, No. 460, § 2; A.S.A. 1947, § 80-850.13; Acts 1989, No. 24, §§ 2, 3; 1989 (3rd Ex. Sess.), No. 37, § 1; 1991, No. 401, § 4; 1993, No. 294, § 13; 1993, No. 968, § 2; 1994 (1st Ex. Sess.), No. 1, § 2.

6-20-307. Acts 1983 (Ex. Sess.), No. 34, § 8; A.S.A. 1947, § 80-850.17; Acts 1987, No. 819, § 1; 1989, No. 820, § 1; 1991, No. 401, § 5; 1993, No. 465, § 1; 1993, No. 1043, § 1; 1995, No. 585, §§ 1, 2; 1995, No. 1142, § 1.

6-20-308. Acts 1983 (Ex. Sess.), No. 34, § 10; A.S.A. 1947, § 80-850.19; Acts 1993, No. 470, § 1.

6-20-309. Acts 1983 (Ex. Sess.), No. 34, § 5; 1985, No. 674, § 1; A.S.A. 1947, § 80-850.14; Acts 1987 (1st Ex. Sess.), No. 3, § 1; 1989, No. 30, § 1; 1991, No. 401, § 6; 1991, No. 618, §§ 1, 2.

6-20-310. Acts 1983 (Ex. Sess.), No. 34, § 6; 1983 (Ex. Sess.), No. 107, § 1; 1985, No. 674, § 2; A.S.A. 1947, § 80-850.15; Acts 1987, No. 203, § 1; 1989, No. 480, § 1; 1993, No. 294, § 13; 1994 (1st Ex. Sess.), No. 1, § 4.

6-20-311. Acts 1983 (Ex. Sess.), No. 34, § 6; 1985, No. 789, § 2; A.S.A. 1947, § 80-850.15.

6-20-312. Acts 1983 (Ex. Sess.), No. 34, § 6; A.S.A. 1947, § 80-850.15. This section was previously repealed by Acts 1993, No. 294, § 13.

6-20-313. Acts 1983 (Ex. Sess.), No. 34, § 6; A.S.A. 1947, § 80-850.15; Acts 1987, No. 377, § 1; 1989, No. 24, § 5; 1993, No. 294, § 13; 1994 (1st Ex. Sess.), No. 1, § 5; 1995, No. 915, § 10.

6-20-314. Acts 1983 (Ex. Sess.), No. 34, § 7; A.S.A. 1947, § 80-850.16; Acts 1991, No. 401, §§ 7, 8; 1993, No. 968, § 3; 1994 (1st Ex. Sess.), No. 1, § 3.

6-20-315. Acts 1983 (Ex. Sess.), No. 34, § 9; A.S.A. 1947, § 80-850.18.

6-20-316. Acts 1983 (Ex. Sess.), No. 34, § 9; A.S.A. 1947, § 80-850.18; Acts 1991, No. 1016, § 1; 1993, No. 294, § 13.

6-20-317. Acts 1983 (Ex. Sess.), No. 34, § 9; A.S.A. 1947, § 80-850.18.

6-20-318. Acts 1983 (Ex. Sess.), No. 34, § 9; A.S.A. 1947, § 80-850.18.

6-20-320. Acts 1989, No. 24, § 6; 1989 (3rd Ex. Sess.), No. 37, § 2; 1991, No. 401, §§ 11, 12.

6-20-301 — 6-20-311. [Repealed.]

Publisher's Notes. These sections, concerning the Equitable School Finance System Act of 1995, were repealed by Acts 2003 (2nd Ex. Sess.), No. 59, § 4. The sections were derived from the following sources:

6-20-301. Acts 1995, No. 917, § 1.

6-20-302. Acts 1995, No. 917, § 2; 1997, No. 1307, § 1.

6-20-303. Acts 1995, No. 917, § 4; 1997, No. 439, § 1; 1997, No. 1307, § 2; 1999, No. 1549, § 10; 2001, No. 1220, § 6.

6-20-304. Acts 1995, No. 917, § 14.

6-20-305. Acts 1995, No. 917, § 13.

6-20-306. Acts 1995, No. 917, § 3; 1997, No. 1307, § 3.

6-20-307. Acts 1995, No. 917, § 3; 1997, No. 1307, § 4; 1999, No. 1549, § 11.

6-20-308. Acts 1995, No. 917, § 3; 1997, No. 1158, § 1; 1997, No. 1307, § 5; 1999, No. 1549, § 12.

6-20-309. Acts 1995, No. 917, § 3; 1997, No. 1307, § 7; 1999, No. 1549, § 13.

6-20-310. Acts 1995, No. 917, § 3; 1997, No. 1307, § 8; 1999, No. 100, § 11; 2001, No. 1220, § 7.

6-20-311. Acts 1995, No. 917, § 5; 1997, No. 1307, § 9; 1999, No. 1549, § 14.

6-20-312. [Repealed.]

A.C.R.C. Notes. Pursuant to § 1-2-207, the amendment of this section by Acts 1997, No. 1040 was superseded by the repeal by Acts 1997, No. 1173.

Acts 1995, No. 917, § 7(a)-(c), formerly codified as a note under § 6-20-312, were repealed by Acts 1997, No. 1173, § 4. Acts 1995, No. 917, § 7(d) and (e), formerly noted at § 6-20-312, are now codified as § 6-20-322. Acts 1995, No. 917, § 7(f),

codified in part as § 6-20-312(f), was repealed by Acts 1997, No. 1173, § 20.

Publisher's Notes. This section, concerning a tax surcharge, was repealed by Acts 1997, No. 1173, § 2. The section was derived from Acts 1995, No. 916 §§ 1, 2; 1995, No. 917, § 7; 1997, No. 1040, § 30.

Acts 1995, No. 916, § 1, was also codified as § 19-6-481(c) [repealed].

6-20-313 — 6-20-318. [Repealed.]

Publisher's Notes. As to the repeal of these sections, see the Publisher's Notes at the beginning of this subchapter.

6-20-319, 6-20-320. [Repealed.]

Publisher's Notes. These sections, concerning other requirements for state aid and computation of classroom teacher salaries, were repealed by Acts 2003 (2nd Ex. Sess.), No. 59, § 4. The sections were derived from the following sources:

6-20-319. Acts 1983 (Ex. Sess.), No. 34, § 11; A.S.A. 1947, § 80-850.20; Acts 1987, No. 594, § 1; 1991, No. 401, §§ 9, 10; 1995, No. 917, § 15; 1995, No. 1194, § 23; 1999, No. 1549, § 17.

6-20-320. Acts 1995, No. 1194, § 11.

6-20-321. [Repealed.]

Publisher's Notes. As to the repeal of this section, see the Publisher's Notes at the beginning of this subchapter.

6-20-322. [Repealed.]

Publisher's Notes. This section, concerning enforcement mechanisms, was repealed by Acts 1999, No. 1549, § 18. The

section was derived from Acts 1995, No. 917, § 7.

6-20-323 — 6-20-327. [Repealed.]

Publisher's Notes. These sections, concerning special needs students, incentive revenues to encourage local millage, state equalization funding for natural disaster areas, districts losing revenues, and calculation and disbursement of funds authorized, were repealed by Acts 2003 (2nd Ex. Sess.), No. 59, § 4. The sections were derived from the following sources:

6-20-323. Acts 1997, No. 1307, § 11; 1999, No. 1549, § 19.

6-20-324. Acts 1997, No. 1307, § 6; 1999, No. 1549, § 20.

6-20-325. Acts 1999, No. 975, § 1.

6-20-326. Acts 1999, No. 1296, § 1; 1999, No. 1549, § 15.

6-20-327. Acts 1999, No. 1549, § 16.

SUBCHAPTER 4 — DISTRICT FINANCES

SECTION.

- 6-20-401. Definitions.
- 6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.
- 6-20-403. Authority to draw warrants — Countersignature.
- 6-20-404. Issuance of warrants to pay school bonds — Description of indebtedness.
- 6-20-405. Energy savings contract.
- 6-20-406. [Repealed.]
- 6-20-407. Fraudulent issuance of warrants.

SECTION.

- 6-20-408. [Repealed.]
- 6-20-409. Petty cash fund.
- 6-20-410. School fiscal year.
- 6-20-411. Interest-free loans from federal agencies.
- 6-20-412. Nonrecurring salary payments.
- 6-20-413. [Repealed.]
- 6-20-414. Public-public partnerships.
- 6-20-415. Consultants.
- 6-20-416. Desegregation funding.
- 6-20-417. Student awards.

Preambles. Acts 1969, No. 76 contained a preamble which read: "Whereas, the laws of Arkansas prohibit school districts from incurring obligations in any school year in excess of the revenues for that year; and

"Whereas, the school fiscal officer and the county treasurer are jointly liable for the issuance, signing and payment of any warrant in violation of said laws; and

"Whereas, said laws do not provide ample safeguards whereby the county treasurer may evaluate school district warrants to determine that the fiscal laws are being complied with, and thereby impose an unfair obligation upon the county treasurer in making him liable for warrants issued in violation of such law; and

"Whereas, clarification of the duties of the school fiscal officer and the county treasurer with respect to payment of school district warrants is necessary in order that the duties and obligation of each of said offices may be more clearly defined ... "

Effective Dates. Acts 1874 (Spec. Sess.), No. 14, § 9: approved May 27, 1874.

Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before

the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1937, No. 84, § 5: effective on passage.

Acts 1939, No. 194, § 4: Mar. 9, 1939.

Acts 1949, No. 286, § 4: Mar. 19, 1949.

Acts 1958 (2nd Ex. Sess.), No. 3, § 2: Aug. 29, 1958. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas; (1) that in many of the school districts of the state there has been, in 1958, a significant increase in assessed valuations, making it possible to reduce the local school tax rate in the annual school election to be held in December 1958; (2) that the method of computing the net proceeds of local taxes for school purposes, based upon tax rates pledged for debt service when assessments were much lower will create a financial hardship unless an alternate method is provided; and (3) that only the provisions of this Act will alleviate the aforementioned situation. Therefore, an emergency is hereby declared to exist, and this Act

being necessary for the preservation of the public peace, health, and safety, shall take effect and be in full force from and after the date of its passage and approval."

Acts 1969, No. 76, § 4: Feb. 20, 1969. Emergency clause provided: "There is hereby found and determined by the General Assembly that the existing laws of this State making a county treasurer and his surety jointly liable with a school fiscal officer for payment of school warrants drawn in violation of the laws imposes an undue burden upon the county treasurer since he has no means by which to determine whether a school district's obligations drawn against the revenues of a particular school year may not have, in fact, been incurred in a different school year; and, that the immediate passage of this act is necessary to clarify said laws with respect to the duties and obligations of a school fiscal officer and the county treasurer in the expenditure of school district funds. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 494, § 4: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to expand the authority of school districts to issue post-dated warrants and that such action will facilitate the operation of the school districts in this State; that under Amendment Number 7 to the Arkansas Constitution, acts without an emergency clause become effective ninety (90) days after final adjournment of the General Assembly; that it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution, and that an extension of the Session might result in this Act not becoming effective until after July 1, 1977, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1977. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after July 1, 1977."

Acts 1983, No. 438, § 4: Mar. 13, 1983. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that there is an urgent need to expand the authority of school districts to issue post-dated warrants and other evidence of indebtedness in order to facilitate the efficient operation of local school districts in this State. Therefore an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval."

Acts 1985, No. 223, § 3: Feb. 28, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to clarify and expand the authority of school districts so as to specifically authorize them to enter into installment contracts to acquire property and services which are authorized by law, without the cumbersome preparation of numerous warrants in advance, so as to facilitate the efficient operation of local school districts in this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987 (1st Ex. Sess.), No. 19, § 3: June 12, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that present law is unclear as to whether school districts may accept interest-free loans from the federal government; that this Act provides a mechanism for the acceptance of such loans by school districts; and that this Act should be given immediate effect in order to allow school districts to take advantage as soon as possible of interest-free loans provided by federal agencies. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 105, § 6: Feb. 20, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current method of collecting property taxes which fund school districts severely limits a school district's ability to meet all obligations during the months in which the district must operate prior to the final settlement from the county; that it has been a long established

practice that lending institutions make moneys available to school districts to assist during such time; that the law needs clarification to permit this practice to continue; that this act is designed to provide such clarification and should be given effect immediately to insure that such practice is permitted to continue. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 401, § 19: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the effectiveness of this act on July 1, 1991 is essential to the operation of the Arkansas Department of Education and the various school districts of this state; that the various changes reflected in this act require implementation on a day certain before the beginning of the upcoming school year; and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1992 (1st Ex. Sess.), No. 53, § 6: Mar. 17, 1992. Emergency clause provided: "It is hereby found and determined by the General Assembly that bankruptcies and receiverships result in delinquent property taxes which results in substantial financial distress to school districts; this act provides a mechanism for the State Department of Education to loan money to school districts in such instances and should be given effect immediately in order to protect the solvency of those school districts. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 314, § 6: Mar. 2, 1993. Emergency clause provided: "The General Assembly hereby defines and determines

that the authorization herein for the withholding of state aid to cure payment deficiencies by school districts will permit Arkansas school districts to borrow money for current needs on favorable terms without providing letters of credit or other credit enhancement, and that this legislation must be in effect in order to permit these benefits to school districts participating in the pooled cash flow program for the 1993-94 school year. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect immediately upon its adoption and approval."

Acts 1997, No. 962, § 8: Mar. 31, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that school districts in Arkansas urgently need a way to finance the purchase and installation of energy conservation measures that reduce energy consumption and operating costs of school facilities, and that create a better quality and safer learning environment; and it is necessary that school districts be able to pay for the energy conservation measures over a period of ten (10) years in order for the savings generated from the energy conservation measures to pay for the energy conservation measures. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1307, § 19: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the immediate effectiveness of this act is essential to the operation of the Department of Education and local school districts in the calculation of funding for public education and that any delay could work irreparable harm to the Department and the local districts. Therefore an emergency is declared to exist and this act being immediately necessary for the pres-

ervation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1329, § 6: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that providing bondholders with additional security for payment of school district bonds will permit Arkansas school districts to issue bonds on more favorable terms and at lower rates of interest, and that this legislation must be in effect in order to permit these benefits to school districts who urgently need to finance capital improvements to their physical facilities and who need to refund certain outstanding bonds that will provide substantial savings to the school district. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 1456, § 9: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that educators are compensated on an

annual basis beginning in July and ending in June. It is further determined that the change in compensation practices embodied in this act must take place in the same time frame as normal compensation practices or confusion among school districts and educators would ensue. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2005, No. 1866, § 2: Apr. 8, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that in order to meet the urgent needs of the school districts, the districts need the ability to finance those needs as quickly as possible and at the best possible interest rates; that the school districts also need a way to pay the costs of issuing postdated warrants or entering into installment contracts or lease purchase agreements that are being used to finance needs of the districts; and that this act is immediately necessary to correct the deficiencies in the current law. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), Nos. 22 and 23, § 6: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity that must be corrected immediately; that statutory limitations on bonded indebtedness for school districts may impair some school districts' ability to raise local resources necessary for the repair, improvement, and replacement of academic facilities; that legislative correction is immediately necessary in order to allow school districts, particularly school districts experiencing rapid growth, to use all available revenue

streams in providing an adequate opportunity for an adequate education to every public school student in the state. Therefore, an emergency is declared to exist and this act being necessary for the public peace, health, and safety shall become effective on: (1) The date of its approval by

the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-401. Definitions.

As used in this subchapter:

(1) "Current indebtedness" means a debt obligation incurred by a school district for the purpose of paying maintenance or general operation expenses for the fiscal year in which the debt is incurred or for a purpose for which a postdated warrant, installment contract, or lease-purchase agreement may be issued;

(2) "Energy conservation measure" means any improvement, repair, alteration, or betterment of any new building design or any existing building or facility owned or operated by a school district or any equipment, fixture, or furnishing to be added to or used in any building or facility that is designed to reduce energy consumption or operating costs and may include, without limitation, one (1) or more of the following:

(A) Insulation of the building structure or systems within the building;

(B) Storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(C) Automated or computerized energy control systems;

(D) Heating, ventilating, or air conditioning system modifications or replacements;

(E) Replacements or modifications of lighting fixtures to increase the energy efficiency of the lighting system;

(F) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements even in lieu of an increase in energy usage;

(G) Any additional building infrastructure improvements, cost savings, and life safety or other safety or conservation measures that provide long-term operating cost reductions and are in compliance with state and local codes; and

(H) Building operation programs that reduce operating costs;

(3) "Nonrevenue receipts of a school district" means those receipts which either incur an obligation which must be met at some future date or which change the form of an asset from property to cash. Specifically, they consist of the proceeds of a bond sale, payment of losses on an insurance policy, the receipts from the sale of property, etc.; and

(4) “Revenue receipts of a school district” means those receipts that do not result in increasing school indebtedness or in depleting school property. Specifically, revenue receipts of a school district for any fiscal year shall consist of the following funds:

(A) Net cash balance on hand at the beginning of the school fiscal year, July 1;

(B) The remaining net proceeds of local taxes collected in the calendar year in which the school fiscal year started plus forty percent (40%) of the proceeds of the local taxes that are not pledged to secure bonded indebtedness or forty percent (40%) of the revenue from the uniform rate of tax whichever is greater collected in the succeeding calendar year. This forty percent (40%) shall be determined by applying the following formula: The greater of the assessed valuation multiplied by the tax rate which is not pledged to secure bonded indebtedness multiplied by forty percent (40%) or the assessed valuation multiplied by the uniform rate of tax multiplied by forty percent (40%); and

(C) The net proceeds of all other funds accrued or placed to the credit of the district during the fiscal year from regular revenue sources, including, but not limited to, state and federal funding.

History. Acts 1939, No. 194, § 2; 1949, No. 150, § 1; 1958 (2nd Ex. Sess.), No. 3, § 1; A.S.A. 1947, § 80-1002; Acts 1989, No. 105, § 1; 1993, No. 314, § 1; 1997, No. 962, § 1; 1997, No. 1307, § 10; 2005, No. 2156, § 1.

Amendments. The 2005 amendment inserted “new building design or any existing” in (2).

6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.

(a)(1)(A) The amount of obligations incurred by a school district for any school fiscal year shall not be in excess of the revenue receipts of the district for that year except as provided in this section and in § 6-20-801 et seq.

(B) A school district or public charter school may enter into public-private partnerships whereby the school district or public charter school enters into a lease-purchase agreement for the acquisition or construction of a school building or related facilities built or acquired by the private entities with facilities bonds exempt from federal taxes under 26 U.S.C. § 142(a)(13), as it existed on January 1, 2003, or otherwise exempt under 26 U.S.C. § 103, as it existed on January 1, 2005.

(2) A school district may issue postdated warrants or enter into installment contracts or short-term lease-purchase agreements for the following purposes:

(A) Purchase of school buses;

(B) Payment of premiums of insurance policies on school buildings, facilities, and equipment in instances in which the insurance coverage extends three (3) years or longer;

(C)(i) Purchase of equipment.

(ii) However, purchase of equipment does not include separate equipment service agreements, equipment repair contracts, or extended warranties for the equipment;

(D) Installation or purchase, or both, of energy conservation measures in school facilities;

(E) Construction, repair, and renovation of school facilities;

(F) Purchase of school sites;

(G) Payment on loans secured for settlement resulting from litigation against a school district;

(H) Payment of the district's pro rata part of employing professional appraisers as authorized by laws providing for the appraisal or reappraisal and assessment of property for ad valorem tax purposes; and

(I) The professional development and training of teachers or other programs authorized under the federally recognized Qualified Zone Academy Bond Program codified at 26 U.S.C. § 1397E.

(3) School districts may issue postdated warrants or enter into installment contracts or lease-purchase agreements in an amount sufficient to accomplish the purposes listed in subdivision (a)(2) of this section and to pay the costs of issuing the postdated warrants or entering into the installment contracts or lease purchase-agreements.

(b)(1)(A) Except as provided in subdivisions (b)(1)(B) and (C) of this section, a postdated warrant, a short-term lease-purchase agreement, or an installment contract must be paid within ten (10) years of the date of issuance of the postdated warrant or the execution of the written lease-purchase agreement or installment contract, as the case may be.

(B)(i) A school district's acquisition of energy conservation measures under § 6-20-405 may be financed by the school district over a twenty-year period after the execution by the school district of the postdated warrant, lease-purchase agreement, or installment contract.

(ii) However, no financing shall exceed the reasonably expected useful life of the energy facilities or equipment subject to the energy savings contract in favor of either a qualified provider or a third-party financing company designated by a qualified provider.

(C) A long-term lease-purchase agreement allowed under subdivision (a)(1)(B) of this section:

(i) Shall be paid within thirty (30) years of the date of the execution of the written lease-purchase agreement; and

(ii)(a) May contain a provision allowing the school district an option to terminate the agreement at the end of any fiscal year for the school district.

(b)(1) Any long-term lease containing an option to terminate at the end of a fiscal year shall not be included in the calculation of the debt ratio applicable to that school district.

(2) Any long-term lease allowed under subdivision (a)(1)(B) of this section that does not contain an option to terminate at the end of the

fiscal year shall be included in the calculation of the debt ratio applicable to that school district.

(iii) All school buildings or related facilities shall comply with the requirements of the Arkansas School Facility Manual in effect at the time the lease became effective.

(D)(i) A school district may sublease a portion of a school building or facility whenever that building or facility is not being used for educational purposes.

(ii) Rent received from a sublease:

(a) Shall be deposited into the school district's general fund; and

(b) May be used for any operational or capital purpose.

(E) Postdated warrants, lease-purchase agreements, and installment contracts must be registered on forms provided or approved by the State Board of Education with the treasurer of the district and the state board.

(2)(A) Each lease-purchase agreement and installment contract must have attached thereto a schedule of the rent or installments to be paid, showing:

(i) The payee and any assignee;

(ii) The school district;

(iii) The purpose of the purchase or payment;

(iv) The due date of each installment; and

(v) The amount of principal and interest of each installment and the fiscal year in which the installment is to be paid.

(B) A copy of each contract and of the schedule of payments shall be filed with the treasurer of the district and with the state board, and when so filed, each installment may be paid as it becomes due.

(3)(A) Except as provided in subdivision (b)(3)(B) of this section, the unpaid principal amount of postdated warrants issued and installment contracts and lease-purchase agreements entered into shall be a part of the total debt of the district as limited by § 6-20-803 with the district fiscal officer and his or her surety liable for exceeding the limitations.

(B) The unpaid principal amount of postdated warrants, lease-purchase agreements, or installment contracts entered into in connection with a guaranteed energy savings contract under § 6-20-405 shall not be a part of the total debt of the district.

(4) A copy of any guaranteed energy savings contract that is executed in connection with the acquisition, installation, or construction of energy conservation measures under this section shall be filed with the Department of Education.

(5) Payments by a school district pursuant to postdated warrants, installment contracts, and lease-purchase agreements shall be charged against the budget of the school fiscal year in which they become due and shall be paid out of the revenue receipts for that fiscal year.

(6) All warrants issued or installment contracts and lease-purchase agreements entered into in excess of the revenue of a school district for a school fiscal year are null and void except as provided in this section.

(7) It shall be the duty of the school fiscal officer to indicate on each school district warrant or on the schedule of payments attached to a written installment contract or lease-purchase agreement the school year's revenues against which the obligation was incurred and is to be paid. It shall be unlawful for the school fiscal officer to issue a school district warrant or to enter into an installment contract or lease-purchase agreement the installments for which are to be charged against the revenues of a school year if the obligation thereof was incurred in a different school year except as otherwise authorized in this section.

(8) The school fiscal officer may comply with the provisions of this section by indicating on each warrant or schedule of payments attached to any installment contract or lease-purchase agreement the school year's revenues against which each payment is to be charged, or he or she may use a warrant of a distinct color for a particular year and shall advise the county treasurer, if the county treasurer serves as the school district treasurer, in writing of the color of warrant being used for credit against the revenues of a particular year.

(9) The county treasurer, or the district treasurer if the school district has its own treasurer, and his or her surety shall be jointly liable with the school fiscal officer and his or her surety for the payment of any school warrant or payment on a contract or agreement that is charged against the revenues of a school year if the amount thereof is in excess of the revenue receipts of the district for the school year against which the school fiscal officer has indicated the payment is to be charged or if he or she approved the payment with knowledge that the payment is being charged by the school fiscal officer against the revenues of another school year in violation of this section.

(10) It is the purpose and intent of this section to place primary responsibility on the school fiscal officer and his or her surety for compliance with the provisions of this section and to make the county treasurer, or district treasurer if the school district has its own treasurer, and his or her surety liable for any payment on a warrant, contract, or agreement drawn in violation of this section when the amount of the payment exceeds the revenue receipts of the district for the school year against which it is charged as indicated on the warrant, contract, or agreement or when the county treasurer approves a payment with the knowledge that it is in payment of an obligation of a different school year as prohibited in this section.

(c)(1) A school district may refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts and pay the usual, customary, and reasonable costs of the refinancing by issuing one (1) postdated warrant, lease-purchase agreement, or installment contract if the refinancing:

(A)(i) Results in a net savings to the school district.

(ii) A net savings results if the outstanding principal balance plus the remaining interest payments and any early call penalties is greater than the new principal balance plus the total interest to be

paid and the cost of the refinancing of the outstanding postdated warrant, lease-purchase agreement, or installment contract;

(B) Does not extend the term of the postdated warrant, lease-purchase agreement, or installment contract more than five (5) years beyond the term of the existing individual outstanding postdated warrants, lease-purchase agreements, or installment contracts, and if the original term together with any extension does not exceed ten (10) years;

(C) Does not increase the outstanding debt owed by the school district under the existing outstanding postdated warrants, lease-purchase agreements, or installment contracts except to the extent necessary to cover usual, customary, and reasonable costs of issuance of the new refunding postdated warrant, lease-purchase agreement, or installment contract and except to the extent necessary for new financing as authorized by subsection (a) of this section;

(D)(i) Except as allowed under subdivision (c)(1)(D)(ii) of this section, the outstanding postdated warrants, lease-purchase agreements, or installment contracts have not been previously refinanced.

(ii) Any outstanding postdated warrants, lease-purchase agreements, or installment contracts may be refinanced more than one (1) time if:

(a) The school district realizes a savings from the refinancing;

(b) The term of the debt obligation is not extended; and

(c) The refinancing does not increase the total debt obligation of the school district; and

(E) The school district obtains the prior written approval of the department to refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts.

(2) The state board may promulgate rules and regulations as necessary to implement subdivision (c)(1) of this section.

(d)(1) A school district may incur current indebtedness and issue its notes or other evidence thereof as provided in this subsection.

(2) All current indebtedness incurred in a fiscal year shall mature on or before December 31 of the calendar year in which the fiscal year ends.

(3) Current indebtedness is not included in the term "bonded indebtedness" and shall not be considered a part of the total debt of a district as limited by § 6-20-803.

(4) Current indebtedness shall be payable from and may be secured by a pledge of all or any part of the revenue receipts of the issuing district for the fiscal year in which the debt is incurred.

(5) The amount of obligations incurred by a school district for any school fiscal year, including current indebtedness, shall not be in excess of the revenue receipts of the district for that year except as expressly authorized in subsection (a) of this section.

(e)(1)(A)(i) Except as provided in subdivision (e)(1)(B) of this section, as additional security for the payment of any postdated warrant, installment contract, lease-purchase agreement, or current indebted-

ness of a school district authorized under subdivision (a)(2) of this section, the district may authorize the state board to cure any delinquencies of the school district by withholding state foundation funding due the district.

(ii) Authorization shall be given by the school district at the time that the postdated warrant, installment contract, or lease-purchase agreement is issued or the current indebtedness authorized under subdivision (a)(2) of this section is incurred and shall be given in the manner and in the form that the state board shall prescribe.

(B) A school district may not authorize the state board to cure and the state board shall not cure any delinquencies of the district in contracts or extended warranties on equipment by withholding state foundation funding due the district.

(2)(A) If a school district has authorized withholding of its state foundation funding under subdivision (e)(1)(A) of this section and the school district has failed to pay the payee or paying agent amounts due under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section, the payee or paying agent shall be entitled to payment from the school district's withheld state foundation funding if the payee or paying agent:

(i) Obtains a final judgment establishing the payee's or paying agent's right to payment from the school district under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section; and

(ii) Submits a written request for payment of the amount of the unpaid judgment and a certified copy of the final judgment to the Commissioner of Education and the superintendent of the school district.

(B)(i) Except as provided in subdivision (e)(1)(B) of this section, unless the superintendent of the school district certifies in writing to the commissioner that payment has been made by the district to the payee or the paying agent and the judgment has been paid in full, the commissioner shall withhold from the next distribution to the school district of state foundation funding and remit to the payee or paying agent an amount sufficient to pay the judgment amount.

(ii) If the amount withheld under subdivision (e)(1)(B)(i) of this section is insufficient to pay the judgment in full, the commissioner shall continue withholding subsequent distributions of state foundation funding to the school district until the superintendent certifies to the commissioner that the judgment is paid in full.

(3) In the event that the amount next due to be distributed to the delinquent district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state aid as due and remit it to the payee or paying agent until the payment deficiency has been cured.

(4) If the commissioner is notified that a district is delinquent on two (2) or more obligations for which a district has authorized withholding of state aid to cure a delinquency, the commissioner shall make

payment to payees or paying agents in the order of receipt of notices of the delinquencies.

(f) If the state board withholds state aid from a school district pursuant to subsection (e) of this section, the school district shall be classified as a Phase III school district in distress as described in § 6-20-1609 [repealed].

(g) Any duties required of any officer of the state pursuant to subsection (e) of this section shall be only ministerial in nature and shall in no way transfer any liability of the debtor to the state or any agency or any officer thereof.

(h) The rate of interest on postdated warrants, installment contracts, lease-purchase agreements, and current indebtedness shall not exceed the maximum interest rate for school bonds as determined under § 6-20-1206.

History. Acts 1939, No. 194, § 3; 1949, No. 150, § 2; 1969, No. 76, § 1; 1977, No. 494, § 1; 1981, No. 550, § 1; 1983, No. 438, § 1; 1985, No. 223, § 1; A.S.A. 1947, § 80-1003; Acts 1989, No. 105, §§ 2, 3; 1991, No. 401, § 15; 1993, No. 314, § 2; 1995, No. 233, § 11; 1997, No. 962, §§ 2, 3; 1997, No. 1265, § 1; 1997, No. 1329, § 2; 2001, No. 1220, §§ 8-10; 2003, No. 840, § 1; 2003, No. 1754, §§ 1, 2; 2003 (2nd Ex. Sess.), No. 58, §§ 1, 2; 2005, No. 1866, § 1; 2005, No. 2005, § 1; 2005, No. 2121, §§ 12, 23; 2005, No. 2156, § 2; 2005, No. 2177, § 1; 2006 (1st Ex. Sess.), No. 22, §§ 1-3; 2006 (1st Ex. Sess.), No. 23, §§ 1-3; 2007, No. 827, §§ 114, 115.

A.C.R.C. Notes. Section 6-20-1609 was repealed by Acts 2003, No. 1467, § 22. For current law related to school districts in fiscal distress, see the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

Prior to the amendment by Acts 2005, No. 2177, § 1, the word “years” followed “ten (10)” in subdivision (b)(1)(A) but was neither set out in Act 2177 nor specifically stricken.

Publisher’s Notes. Subsection (a) as set out above was merged by the Arkansas Code Revision Commission. Acts 1997, Nos. 962, 1265, and 1329 each set out subsection (a) in its entirety as amended by that act. As to the resolution of conflicting amendments, see §§ 1-2-207 and 1-2-303.

Amendments. The 2005 amendment by No. 1866 added (a)(3).

The 2005 amendment by No. 2005 inserted “or charter schools” twice in (a)(1)(B).

The 2005 amendment by No. 2121 rewrote (e)(1) and (2).

The 2005 amendment by No. 2156 redesignated former (b)(1)(B) as present (b)(1)(B)(i); substituted “twenty-year period” for “fifteen-year period” in present (b)(1)(B)(i); and added (b)(1)(B)(ii).

The 2005 amendment by No. 2177, in (a)(1)(B), substituted “the acquisition or construction of a school building or related facilities, or acquired” for “school buildings built” and added “or otherwise exempt under 26 U.S.C. § 103, as it existed on January 1, 2005”; substituted “Construction, repair” for “Repair” in (a)(2)(E); substituted “twenty-year” for “fifteen-year” in (b)(1)(B); inserted the subdivision (i) designation in (b)(1)(C) and made related changes; substituted “Shall” for “must” in present (b)(1)(C)(i); added (b)(1)(C)(ii), (b)(1)(C)(iii) and (b)(1)(D); redesignated former (b)(1)(D) as present (b)(1)(E); and inserted “or approved” in present (b)(1)(E).

The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 22 and 23 substituted “§ 6-20-801 et seq.” for “§§ 6-20-801 et seq. and 6-20-1201 et seq.” at the end of (a)(1)(A); and substituted “§ 6-20-803” for “§§ 6-20-803 and 6-20-1202” in (b)(3)(A) and (d)(3).

The 2007 amendment, in (a)(1)(B), substituted “public charter school” for “charter school” in two places, inserted “built,” and made a stylistic change; and inserted “years” in (b)(1)(A).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of ssembly, Education Law, 24 U. Ark. Little
Legislation, 2001 Arkansas General As- Rock L. Rev. 453.

CASE NOTES

ANALYSIS

In General.
Purpose.
Determination of Indebtedness.
Leases.

In General.

This section did not repeal power of a school district to borrow money and pay interest therefor to finance teachers' salaries and other current expenses, but repealed the power to borrow from the next year's revenue. *Jenson v. Special School Dist. No. 6, 199 Ark. 886, 136 S.W.2d 169 (1940).*

Purpose.

The purpose of this section was to prohibit school districts from continuing to pile up nonbonded indebtedness and to limit them in the obligations incurred in any fiscal year to the amount of revenue for that year. *Jenson v. Special School*

Dist. No. 6, 199 Ark. 886, 136 S.W.2d 169 (1940).

Determination of Indebtedness.

This section authorized school districts to incur obligations during any school year in a sum not in excess of the revenue for that year, without regard to previously existing indebtedness, and, if district pays a portion of the indebtedness out of current revenue, it may incur current indebtedness in a like sum. *Jenson v. Special School Dist. No. 6, 199 Ark. 886, 136 S.W.2d 169 (1940).*

Leases.

An education service cooperative could validly enter into a 5 year lease without violating this section. *Ozarks Unlimited Resources Coop. v. Daniels, 333 Ark. 214, 969 S.W.2d 169 (1998).*

Cited: *Heskett v. McRee, 215 Ark. 328, 220 S.W.2d 422 (1949).*

6-20-403. Authority to draw warrants — Countersignature.

The school district board of directors is authorized to draw warrants on the county treasurer when the county treasurer serves as treasurer of the school district for all funds to be disbursed by it, such warrants to be countersigned by the agent authorized under § 6-17-918, as countersignature is expressly required by law.

History. Acts 1931, No. 169, § 141; A.S.A. 1947, § 80-1004; Acts 1993, No. 294, § 13; 1995, No. 233, § 12; 1999, No. 1078, § 79.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

CASE NOTES

Mandamus.

Mandamus will not lie to compel a county superintendent to countersign an illegally issued school warrant. *Bingham*

v. McGehee, 185 Ark. 707, 49 S.W.2d 358 (1932).

Cited: *Heskett v. McRee, 215 Ark. 328, 220 S.W.2d 422 (1949).*

6-20-404. Issuance of warrants to pay school bonds — Description of indebtedness.

(a) All maturities of principal and interest of school bonds shall be paid by issuing warrants against the funds authorized by law for paying bonded indebtedness.

(b) A description of the bonded debt that is being paid shall be written on the face of each warrant issued for this purpose. The description shall be as follows:

(1) Number and date of issue of each bond that is being paid; and

(2) Number and maturity date of each interest coupon and the number and date of each bond from which each interest coupon will be detached when paid.

(c) Warrants issued for the purpose of paying school bonded indebtedness that do not carry the description of such indebtedness as named in subsection (b) of this section are void.

(d) It shall be the duty of the county treasurer, or district treasurer if the school district has its own treasurer, to record in a book the description of the bonded indebtedness that is being paid by each warrant before he or she cashes it.

(e) The county treasurer, or district treasurer if the school district has its own treasurer, and his or her bondsmen shall be liable for the amount of warrants cashed that were issued directly or indirectly in payment of principal or interest of school bonds which do not carry the description as required by this section and which were not recorded as required in subsection (d) of this section.

History. Acts 1937, No. 354, §§ 1-4; §§ 80-1009 — 80-1012; Acts 1995, No. Pope's Dig., §§ 11651-11654; A.S.A. 1947, 233, § 13.

6-20-405. Energy savings contract.

(a) As used in this section:

(1)(A) "Energy savings contract" means a contract for the implementation of one (1) or more energy conservation measures as defined in § 6-20-401 and shall include an investment grade preinstallation energy audit and analysis.

(B) The contract may provide that all payments except obligations on termination of the contract before its expiration are to be made over time and that the energy cost savings are guaranteed by the qualified provider to the extent necessary to pay all of the costs of the energy conservation measures, including all costs of financing and annual services that may include the measurement and verification of the guaranteed savings.

(C) The energy conservation measures to be performed under the contract may be paid for with any combination of revenue or nonrevenue receipts of a school district or, alternatively, financed by the issuance of postdated warrants or entering into installment contracts, or lease-purchase agreements.

(D) Obligations incurred pursuant to a guaranteed energy savings contract are not included in computing a school district's debt ratio.

(E) If an energy savings contract is to be executed concurrently with one (1) or more conventional construction contracts for a common structure, the energy savings contract shall be separate and distinct from the other contract;

(2)(A) "Qualified provider" means a business that:

(i) Possesses a valid Arkansas contractor's license;

(ii) Has a minimum of five (5) years' experience in the analysis, design, implementation, and installation of energy efficiency and facility improvement measures;

(iii) Has the technical and financial capabilities to ensure that the measures generate energy cost savings and the ability to provide maintenance and ongoing measurement of these measures to ensure and verify energy savings; and

(iv) Is preapproved by the Division of Public School Academic Facilities and Transportation.

(B) A qualified provider to whom the contract is awarded:

(i) Shall be required to provide a payment and performance bond to the school district for its faithful performance of the equipment installation; and

(ii) May be required to provide a letter of credit, surety bond, escrowed funds, or a corporate guarantee from a company with an investment grade credit rating in an amount necessary to ensure the effective performance of the contract; and

(3)(A) "Request for qualifications" means a negotiated procurement.

(B)(i) Notice of the request for qualifications shall be published one (1) time each week for no less than two (2) consecutive weeks in a newspaper of statewide circulation.

(ii) Responses shall be sealed and opened in a public forum at a date within thirty (30) days from the last publication, at which point the school district shall evaluate the qualifications.

(b) The school district may select the qualified provider or providers best qualified and capable of performing the desired work and negotiate an energy savings contract for the project.

(c)(1) A school district may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures detailed in the contract would not exceed the amount to be saved in any combination of energy costs or operational costs or future capital expenditures avoided within a twenty-year period from the date of installation if the recommendations in the proposal are followed.

(2) The qualified provider's proposal shall include:

(A) The estimates of all costs of installation, modifications, or remodeling, including without limitation costs of an investment grade preinstallation energy audit and analysis, design, engineering, installation, commissioning, maintenance, repairs, debt service, postinstallation project monitoring, savings measurement and veri-

fication, and data collection and reporting, as well as whether energy consumed or the operating costs, or both, will be reduced;

(B) The qualifications of the provider;

(C) The amount and specific sources of operational savings and capital cost avoidance that the school district acknowledges will occur without future measurement and verification;

(D) A statement from an Arkansas-licensed professional engineer that he or she was a member of the qualified provider's project team that completed a comprehensive energy audit and analysis of the school district's facilities; and

(E) The reasonably expected useful life of each recommended energy conservation measure.

(3)(A) Except as provided in subdivision (c)(3)(C) of this section, before entering into any energy savings contract, the contract shall be reviewed by an engineer who is:

(i) Licensed in the State of Arkansas; and

(ii) Designated by the division as qualified to review energy savings contracts.

(B)(i) The engineer conducting the contract review shall report to the school district any comments or issues that he or she believes merit consideration by the district before the district executes the energy savings contract.

(ii) The engineer shall bear no liability for any estimation of energy savings generated as part of a contract review under this subdivision (c)(3).

(C) Third-party review as provided in this subdivision (c)(3) shall not be required if the qualified provider demonstrates that the provider is a current member in good standing of the Energy Service Company or Energy Service Provider category of the National Association of Energy Service Companies.

(d)(1) The qualified provider shall provide to the school district an annual reconciliation report of the guaranteed energy-use savings.

(2) The qualified provider shall reimburse the school district for any annual shortfall of guaranteed energy-use savings as stated in the contract.

(e) This section shall constitute the sole authority necessary to accomplish the purposes of this section without regard to compliance with other laws that specify procedural requirements for execution of contracts.

History. Acts 1997, No. 962, § 4; 2001, No. 1717, § 1; 2003 (2nd Ex. Sess.), No. 58, § 3; 2005, No. 2156, § 3; 2007, No. 659, § 1.

Publisher's Notes. Former § 6-20-405, concerning registration and inspection of warrants, was repealed by Acts 1992, No. 294, § 13. The section was derived from Acts 1937, No. 84, § 1; Pope's Dig., § 11647; A.S.A. 1947, § 80-1005.

Amendments. The 2005 amendment added (a)(1)(E); substituted "Has a minimum of five (5) years' experience" for "Is experienced" in (a)(2)(A)(ii); in (a)(2)(A)(iii), deleted "demonstrated the ability to secure necessary financial measures to support energy savings guarantees" following "Has," substituted "the measures" for "such measures," and added "and" to the end; added (a)(2)(A)(iv); in

(a)(2)(B), inserted the subdivision (i) designation, substituted "Shall be required to provide a payment and performance" for "may be required to give a sufficient" and deleted "or accomplishment of the guaranteed savings" following "installation"; added (a)(2)(B)(ii); substituted "qualifications" for "proposals" in (a)(3)(A), (a)(3)(B)(i) and (a)(3)(B)(ii); substituted "statewide circulation" for "the school district's choosing and having a circulation in the county or city where the contract is to be performed" at the end of (a)(3)(B)(i); in (a)(3)(B)(ii), substituted "Responses" for "Proposals" and "twenty (20)" for "ten (10)"; rewrote (b); in (c)(1), substituted "any combination of" for "either," "future capital expenditures avoided" for "both" and "twenty-year" for "fifteen-year"; added (c)(2)(D) and (E) and made a related change; rewrote (c)(3); inserted present (d)(1); redesignated former (d) as present (d)(2); and, in present (d)(2), inserted "annual" and "use."

The 2007 amendment substituted "an investment grade preinstallation energy

audit and analysis" for "a preinstallation energy audit or analysis" in (a)(1)(A); in (a)(1)(B), inserted "by the qualified provider," "all of," and "including all costs . . . guaranteed savings"; substituted "any combination of" for "either" in (a)(1)(C), inserted "school" in (a)(1)(D); inserted "and financial" in (a)(2)(A)(iii); substituted "fewer than" for "less than" in (a)(3)(B)(i); substituted "thirty (30) days" for "twenty (20) days" and inserted "school" in (a)(3)(B)(ii); inserted "school" in (b); substituted "detailed in the contract" for "recommended in the proposal" in (c)(1); in (c)(2)(A), substituted "an investment grade preinstallation energy audit and analysis" for "a preinstallation energy audit or analysis" and inserted "commissioning" and "savings measurement and verification"; rewrote (c)(2)(C); and inserted "or Energy Service Provider" in (c)(3)(C); substituted "as stated in the contract" for "projected in the project" in (d)(2); and made related changes.

6-20-406. [Repealed.]

Publisher's Notes. This section, concerning the endorsement, record, payment, and reregistration of warrants, was repealed by Acts 1992, No. 294, § 13. The

section was derived from Acts 1937, No. 84, § 2; Pope's Dig., § 11648; A.S.A. 1947, § 80-1006.

6-20-407. Fraudulent issuance of warrants.

Any director who shall fraudulently issue any school warrant shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties enumerated in Acts 1874 (Spec. Sess.), No. 14, § 7 [repealed].

History. Acts 1874 (Spec. Sess.), No. 14, § 8, p. 18; C. & M. Dig., § 9101; Pope's Dig., § 11724; A.S.A. 1947, § 80-1014.

Publisher's Notes. Acts 1874 (Spec. Sess.), No. 14, § 7, p. 18 [repealed] provided that any officer failing to comply with the requirements of Acts 1874 (Spec.

Sess.), No. 14, for each and every offense, should be subject to indictment, and if found guilty should be punished by a fine of not less than five hundred dollars and by confinement in the penitentiary of the state for a period of not less than three nor more than twelve months.

6-20-408. [Repealed.]

Publisher's Notes. This section, concerning prohibition on purchasing interest in warrants, was repealed by Acts 1995, No. 233, § 21. The section was de-

rived from Acts 1931, No. 169, § 181; 1937, No. 84, § 4; Pope's Dig., §§ 3595, 11623, 11650; A.S.A. 1947, §§ 80-1008, 80-1013.

6-20-409. Petty cash fund.

(a) In order to simplify and expedite fiscal affairs of school districts relating to the payment of miscellaneous items of expenditures incident to their operation, any school district is authorized to create a fund for each school within a district to be known as the petty cash fund.

(b) No payment shall be made from the petty cash fund until the supplies or materials have been delivered and a copy of the invoice or invoices filed with the approval of the school district board of directors.

(c)(1) As funds in the petty cash fund become depleted, the financial secretary of the school district shall draw a warrant upon the county treasurer, or district treasurer if the school district has its own treasurer, payable out of the appropriate fund for reimbursement of expenditures made from the petty cash fund.

(2) The financial secretary of the school district shall attach to the office copy of the warrant the original invoice or receipt of payment therefor of all expenditures made from the petty cash fund during the previous month.

(d) The balance to the credit of the petty cash fund shall at no time exceed the sum of two hundred dollars (\$200) for each school within a district.

History. Acts 1949, No. 286, §§ 1-3; A.S.A. 1947, §§ 80-1018 — 80-1020; Acts 1995, No. 233, § 14; 1999, No. 47, § 1.

6-20-410. School fiscal year.

The school fiscal year for Arkansas shall consist of the twelve-month period beginning July 1 and ending on the following June 30.

History. Acts 1939, No. 194, § 1; A.S.A. 1947, § 80-1001.

6-20-411. Interest-free loans from federal agencies.

(a) The public school districts of this state are authorized to accept interest-free loans from agencies of the federal government if incurring the indebtedness is approved by the State Board of Education. The state board shall not grant its approval unless it is satisfied that the projected revenues and expenses of the school district during the duration of the loan indicate that the school district will be able to retire the debt.

(b) Furthermore, all such loans accepted by public school districts prior to June 12, 1987, are ratified and declared valid.

History. Acts 1987 (1st Ex. Sess.), No. 19, § 1.

6-20-412. Nonrecurring salary payments.

(a) Any school district in the state may pay certified personnel a nonrecurring salary payment from revenues not considered to be recurring sources of revenue.

(b) A nonrecurring salary payment under this section shall not be construed to increase the base salary of the teacher recipient for purposes of calculation of future salary requirements.

(c) Any nonrecurring salary payment under the provisions of this section shall be divided equally among certified personnel employed by the school district at the time of payment unless the board of directors of the district and a majority of the teachers agree to a different distribution.

(d) A report indicating the source of the moneys and the name and amount paid to each recipient shall be furnished to the Department of Education and the Division of Legislative Audit by the ex officio financial secretary of the school district.

(e) Payments to targeted educators made in the form of supplements as addendums to contracts in fulfilling the provisions of this section, § 6-5-307(a), and § 6-17-2101 et seq. [repealed] shall not be considered a nonrecurring salary payment under this section.

History. Acts 1989, No. 268, § 1; 2001, No. 1456, § 8.

6-20-413. [Repealed.]

Publisher's Notes. This section, concerning indicators of fiscal distress in school districts, was repealed by Acts 2007, No. 1573, § 47. This section was derived from Acts 1992 (1st Ex. Sess.), No. 53, § 2.

6-20-414. Public-public partnerships.

(a) As used in this section, "public-public partnership" means a project delivery method in which a school district may enter into a contract to partner with another governmental agency, political subdivision, or institution of higher education to meet a clearly defined need for facilities, infrastructure, or goods and services.

(b) Any school district may use public-public partnerships as a project delivery method for the building, altering, repairing, improving, maintaining, or demolishing of any structure or any improvement to real property owned by the school district.

(c) The Division of Public School Academic Facilities and Transportation shall develop and promulgate rules consistent with the provisions of this section concerning the use of public-public partnerships by school districts.

History. Acts 2005, No. 1368, § 1.

6-20-415. Consultants.

The Department of Education in consultation with the Attorney General shall hire consultants on the following basis:

(1) The consultants shall be qualified as experts in public school district desegregation;

(2) The department shall hire the consultants prior to October 1, 2007;

(3) The purposes for employing the consultants are to determine whether and in what respects any of the three (3) Pulaski County school districts:

(A)(i) Are unitary.

(ii) If a school district has been declared unitary or has been declared unitary in some respects, the consultants shall not examine the school district on those issues; and

(B) Have complied with their respective consent decrees; and

(4) The consultants shall understand and acknowledge in their work and research that their testimony in court may be required.

History. Acts 2007, No. 395, § 2.

A.C.R.C. Notes. Acts 2007, No. 395, § 1, provided:

“Findings.

“It is found and determined by the General Assembly that:

“(1) The school districts in Pulaski County entered into a settlement agreement and desegregation plans in 1989 with the intent to fulfill a ‘promise for achieving unitary school systems which are free from the vestiges of racial discrimination’;

“(2) The State of Arkansas has paid the districts in excess of approximately seven hundred million dollars (\$700,000,000) to assist the districts in fulfilling their promise to achieve unitary schools free from the vestiges of racial discrimination;

“(3) There has never been a date certain when the state’s desegregation obligations in the case styled Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866, are to end;

“(4) The Little Rock School District has recently been declared unitary and has been released from federal court supervision, but the Pulaski County Special School District and the North Little Rock School District have yet to attain a ruling that they have fulfilled their promise to their students to achieve unitary school systems;

“(5) These school districts believe they are unitary or have achieved a unitary

status in some respect, and have stated so publicly in legislative committee meetings;

“(6) The General Assembly finds that without any ruling from the federal district court that the districts have achieved unitary status, there is no assurance that the promise of schools free of the vestiges of racial discrimination has been fulfilled by these districts;

“(7) The General Assembly finds that, as a part of the state’s overall obligation to provide a general, suitable, and efficient school system, the students and parents of the Pulaski County districts deserve to know that they are being educated in a unitary school district, or if their district is not unitary in some respect the district should be making adequate progress towards being declared fully unitary;

“(8) The General Assembly seeks to assist the school districts to achieve unitary status and to fulfill their promise to provide school systems which are free from the vestiges of racial discrimination consistent with their desegregation plans; and

“(9) The General Assembly also seeks to provide some assurance to the children in the districts that the promise of unitary schools in the Pulaski County districts will be fulfilled within a reasonable amount of time.”

Section 6-20-415, as enacted by Acts 2007, No. 1043, § 1, has been redesignated as § 6-20-417.

6-20-416. Desegregation funding.

(a) The Department of Education and the Attorney General are authorized to seek proper federal court review and determination of the current unitary status of any school district in the case of Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866.

(b)(1) Upon July 31, 2007, the department and the Attorney General are authorized to seek modification of the current consent decree or enter into a new or an amended consent decree or settlement agreement under this section that allows the State of Arkansas to:

(A) Continue necessary and appropriate payments under a post-unitary agreement to the three (3) Pulaski County school districts for a limited and definite time period not to exceed seven (7) years and for a definite limited sum of payments;

(B) Ensure that the amount of funding provided under the post-unitary agreement is the total maximum obligation of the state and the school districts in the case;

(C) Ensure that the payments required pursuant to the post-unitary agreement are structured so that the total amount of the payments decrease so that no financial obligation remains due or owed by the state at the end of the time period specified in the post-unitary agreement; and

(D) Ensure that the total of any financial obligation created or established for the state in any one (1) year shall not exceed the state's desegregation obligation for the 2007-2008 school year.

(2) The agreement under this subsection (b) may only be a post-unitary agreement, and the school districts shall receive the continued funding only if they are declared unitary. However, the agreement does not have to be post unitary and may commence upon all districts having been declared, previously or in the future, unitary in terms of student assignment and student racial balance so long as all other requirements in subdivision (b)(1) of this section are met.

(3) Before any agreement is entered into pursuant to this subsection (b), the proposed post-unitary agreement shall be submitted to the Legislative Council for review and approval.

(c)(1) The department in consultation with the Attorney General shall have the authority to enter into agreements with the three (3) Pulaski County school districts to reimburse the school districts for legal fees incurred for seeking unitary status or partial unitary status.

(2) To be eligible for possible reimbursement under this subsection (c) for legal fees incurred, motions seeking unitary status or partial unitary status shall be filed no later than October 30, 2007, and the school districts must be declared unitary or at least partially unitary by the federal district court no later than June 14, 2008.

(3) Under no circumstances shall any one (1) school district be entitled to reimbursement under this subsection (c) in excess of two hundred fifty thousand dollars (\$250,000).

(4) Before a reimbursement agreement is entered into pursuant to this subsection (c), the proposed reimbursement agreement shall be submitted to the Legislative Council for review and approval.

(d)(1) By modifying the current consent decree or entering into a new or an amended consent decree or post-unitary agreement, the State Board of Education may create one (1) or more new school districts within Pulaski County if the creation of the new school district or districts does not eliminate the Pulaski County Special School District from existence.

(2) The state board shall seek the federal district court's approval prior to creating a new school district pursuant to this subsection (d), unless the federal district court's approval is not required because:

(A) The school district or districts involved have been released from the federal district court's supervision; or

(B) The new school district or districts is contemplated only as part of the post-unitary agreement.

(3) Any new school district created in Pulaski County shall receive a pro rata distribution based on its average daily membership of the funding provided under subsection (b) of this section for the school district or districts from which it was created.

(e) Nothing in this section shall be construed:

(1) To force entry of a consent decree or settlement agreement by the department or the Attorney General with the three (3) Pulaski County school districts; or

(2) As protecting any school district from action or sanction by the department for fiscal, academic, or facilities distress.

History. Acts 2007, No. 395, § 2.

A.C.R.C. Notes. Acts 2007, No. 395, § 1, provided:

"Findings.

"It is found and determined by the General Assembly that:

"(1) The school districts in Pulaski County entered into a settlement agreement and desegregation plans in 1989 with the intent to fulfill a 'promise for achieving unitary school systems which are free from the vestiges of racial discrimination';

"(2) The State of Arkansas has paid the districts in excess of approximately seven hundred million dollars (\$700,000,000) to assist the districts in fulfilling their promise to achieve unitary schools free from the vestiges of racial discrimination;

"(3) There has never been a date certain when the state's desegregation obligations in the case styled Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866, are to end;

"(4) The Little Rock School District has recently been declared unitary and has been released from federal court supervision, but the Pulaski County Special School District and the North Little Rock School District have yet to attain a ruling that they have fulfilled their promise to their students to achieve unitary school systems;

"(5) These school districts believe they are unitary or have achieved a unitary status in some respect, and have stated so publicly in legislative committee meetings;

"(6) The General Assembly finds that without any ruling from the federal district court that the districts have achieved unitary status, there is no assurance that the promise of schools free of the vestiges of racial discrimination has been fulfilled by these districts;

"(7) The General Assembly finds that, as a part of the state's overall obligation to provide a general, suitable, and efficient school system, the students and parents of the Pulaski County districts deserve to

know that they are being educated in a unitary school district, or if their district is not unitary in some respect the district should be making adequate progress towards being declared fully unitary;

“(8) The General Assembly seeks to assist the school districts to achieve unitary status and to fulfill their promise to provide school systems which are free from

the vestiges of racial discrimination consistent with their desegregation plans; and

“(9) The General Assembly also seeks to provide some assurance to the children in the districts that the promise of unitary schools in the Pulaski County districts will be fulfilled within a reasonable amount of time.”

6-20-417. Student awards.

(a)(1) As used in this section “net athletic event gate receipts” means the amount remaining from fees, including charges for reserved seating, collected for admission to a school district athletic event less any expenses, including any rental fee or any leasing cost for a facility used for the athletic event, paid by the school district from those gate receipts.

(2) “Net athletic event gate receipts” does not mean any portion of admission fees charged by a school district for an athletic event held at the school district or at a facility leased or rented by the school district that is remitted or passed through to another entity outside the school district.

(b)(1) If approved by the board of directors of a school district, a school district may use net athletic event gate receipts to purchase letter jackets, sweaters, blankets, plaques, or similar items as awards for student participation in school-sponsored activities.

(2) The school district shall not expend more than an average of one hundred dollars (\$100) per student per activity under subdivision (b)(1) of this section unless the school district has private funds that may be used for that purpose.

(c) Beginning July 1, 2007, a school district shall account for athletic gate receipts in a separate fund.

History. Acts 2007, No. 1043, § 1.

SUBCHAPTER 5 — FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN

SECTION.

- 6-20-501. Legislative determination.
- 6-20-502. Definitions.
- 6-20-503. Rules and regulations.
- 6-20-504. Children living in foster homes.
- 6-20-505. Children with disabilities —
Receiving district’s request for funds.
- 6-20-506. Children with disabilities —
Approval or rejection of request.

SECTION.

- 6-20-507. Children with disabilities —
Hearing before hearing of-ficer.
- 6-20-508. Children with disabilities —
Hearing and ruling by State Board of Education.
- 6-20-509. Children with disabilities —
Sending district’s refusal to pay.
- 6-20-510. Confidentiality of records.

Cross References. Equality in expenditure for education of children with disabilities, § 6-41-220.

RESEARCH REFERENCES

Ark. L. Rev. Gitelman and McIvor, Domicile, Residence and Going to School in Arkansas, 37 Ark. L. Rev. 843.

6-20-501. Legislative determination.

The General Assembly recognizes that:

(1) Under present laws and practices, school students of this state may, for various reasons and purposes, be transferred or assigned to attend school in another district;

(2) In many such instances, the respective school districts involved here have entered into agreements with respect to the financial rights and responsibilities of the respective school districts involved in student transfer and assignment and have made provision for the sharing in the cost of the education of the child mutually acceptable to both districts;

(3) In many instances involving a child living in a foster home or a child with disabilities, as defined in this subchapter, the foster child or child with disabilities or the child's parents, guardian, or some other person having custody of the child or standing in the relationship of loco parentis to the child, enters or seeks to enter a school district other than the school district in which the parents of the child reside and that gross inequities are worked upon the school district receiving the child if the district is unable to receive the state, local, and federal funds available to the sending district for the education of the child; and

(4) Fairness and equity demand that appropriate rules and regulations be adopted to define the relative rights and responsibilities of the involved school districts to share the educational funds received by a sending district to educate a child with disabilities or a child living in a foster home who attends school in another school district in this state if it is determined that it is in the best interest of the education of the child with disabilities to attend school in the receiving district, so long as attendance therein is not based upon racial or other reasons which are contrary to applicable federal or state laws and regulations.

History. Acts 1981, No. 815, § 2; A.S.A. 1947, § 80-739; Acts 1993, No. 294, § 13.

6-20-502. Definitions.

As used in this subchapter:

(1) "Child living in a foster home" means a school-age child in this state living in the residence of the guardian or the residence of a foster

family home or child care facility when the Department of Human Services has custody of the child or when the child has been placed in a foster family home or child care facility by a circuit court or a juvenile division of a circuit court, or when the child has been placed in a family care and training home by the department. "Child care facility" shall not include any unit of the human development centers operated by the department or its successor;

(2) "Child with disabilities" or "student with disabilities" means a person eligible to attend the public schools in this state who is identified as disabled in accordance with regulations promulgated by the State Board of Education under The Children With Disabilities Act of 1973, § 6-41-201 et seq.;

(3) "Federal funds" means any federal funds received by the school district that are of a category or nature that would have benefited a child with disabilities or a child living in a foster home, as defined in this subchapter, if the child had attended the school district during the school year or the portion of the school year but who instead attended another school district in this state which makes application for funds to be used in behalf of the education of the child, as provided in this subchapter;

(4) "Local operating funds" means any local operating funds derived from property taxes for the school year, including any surplus funds received from millage pledged for indebtedness purposes but which are not necessary to meet debt service requirements and are transferred to the operating account of the school district for the year;

(5) "Receiving district" means a school district in this state in which a child attends or seeks to attend school other than the school district of residence of the child;

(6) "Sending district" means the school district that is defined by laws or regulations as being the school district of residence of the school-age child; and

(7) "State funds" means any state funds received by the school district under § 6-20-301 et seq. [repealed] or other state special education funds.

History. Acts 1981, No. 815, § 1; A.S.A. 1947, § 80-738; Acts 1993, No. 294, § 13; 1995, No. 1296, § 26; 1999, No. 391, § 17.

6-20-503. Rules and regulations.

The State Board of Education shall adopt reasonable rules and regulations for the administration and enforcement of the provisions of this subchapter and for the carrying out of the purposes and intent of this subchapter that reasonable procedures be established to assure that funds provided for the education of children living in foster homes and of children with disabilities, as defined in this subchapter, in this state shall be equitably and fairly shared by the school districts having the lawful responsibility for the education of such children in this state.

History. Acts 1981, No. 815, § 6; A.S.A. 1947, § 80-743; Acts 1993, No. 294, § 13.

6-20-504. Children living in foster homes.

(a) For the purpose of the education of a school-age child in this state, the residence of a child living in a foster home shall be the school district of the residence of the foster family home or child care facility in which the child resides.

(b)(1) In those instances in which a child living in a foster home attends a public school in a school district in which the foster family home or child care facility is located but, during the previous school year, attended another school district in this state which, due to the average daily membership of that child during the previous school year, receives state equalization aid and other state aid and federal funds for or in behalf of the education of the child during the current school year, the school district in which the foster child is a student may make application to the other school district receiving state and federal funds for the education of the child to remit the pro rata part of such state, federal, and local funds available for the education of the child, including special education funds if the foster child is a child with disabilities, to the school district in which the foster child is now a student.

(2) The application shall be in writing and shall state the name of the child, state the fact that the child is in a foster home in the school district, and request payment to that school district of the state, federal, and local funds, including special education funds, if the foster child is a child with disabilities as defined in this subchapter, available for the education of the child for the current school year due to the attendance of the child at the school attended during the previous year.

(3) If the school district to which the request is made fails or refuses to pay the requested funds to the requesting school district within thirty (30) days after receiving the request, the requesting school district may notify the Department of Education of the fact, and the department shall investigate the facts of the request and the refusal to remit payment.

(4) If the department determines that the funds requested were due the requesting school district as provided in this section, the department shall notify the school districts involved of the determination and shall withhold the amount thereof from the next state aid funds available for distribution to the school district that failed or refused to remit the funds as provided in this subchapter and shall pay the amount over to the requesting school district as provided in this section, to be used for the education of the child living in a foster home who is a student in the school district during the current school year.

History. Acts 1981, No. 815, § 4; A.S.A. 1947, § 80-741; Acts 1993, No. 294, § 13; 1995, No. 1296, § 27; 1999, No. 391, § 18.

6-20-505. Children with disabilities — Receiving district's request for funds.

(a) Whenever any child with disabilities attends or seeks to attend a school district other than the school district in which the child's lawful parents, guardian, or other person in loco parentis to the child resides, the receiving district may make application to the sending district requesting that all state, federal, local, or other funds received by the sending district in behalf of the education of the child for the school year or portion of the school year the child attends school in the receiving district be remitted by the sending district to the receiving district.

(b) Before requesting such funds, the requesting district shall have made a determination that:

(1) The child is a child with disabilities as defined in this subchapter and the applicable rules and regulations promulgated by the State Board of Education, as provided in this subchapter;

(2) The attendance of the child with disabilities in the school district is in the best interest of the education of the child with disabilities;

(3) The receiving district has accepted or is willing to accept the child with disabilities as a student; and

(4) The request for attendance at the receiving district is not based upon any racial or other reason that might be contrary to the laws and regulations of the United States or of this state or the rules and regulations promulgated by the state board under the provisions of this subchapter.

(c) The request for funds from the sending district shall be prepared by the receiving district in writing, setting forth the name of the child, the name and address of the parents, guardian, or other person lawfully responsible for the child, stating the reasons why the child is in attendance or seeks to attend the receiving district instead of the district in which the child should be in attendance, and stating that the receiving district has determined it is in the best interest of the education of the child with disabilities that the child be permitted to attend school in the receiving district.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13.

6-20-506. Children with disabilities — Approval or rejection of request.

(a) Within thirty (30) days after receiving a request for payment from the receiving district, the school board of directors of the district to which the request is made shall review and either:

(1) Approve the request and make payment in behalf of the education of the child to the receiving district in the manner requested or as may be mutually agreed to by the districts; or

(2) If the school board of directors rejects the request or rejects any of the terms thereof, the action shall be transmitted in writing to the district making the request within five (5) days after the action is taken,

setting forth the reasons for rejecting the request or outlining the objections to or modifications proposed therein.

(b) The request for funds filed by the receiving district with the sending district shall seek payments that shall not exceed, unless the school districts shall mutually agree otherwise, the pro rata amount of state funds received per child for each category of state funds received by the school district, as the funds relate to the total number of students in attendance in the school district for which the funds were received.

(c) The amount of local funds to be remitted shall not exceed the pro rata amount per child of local operating funds as defined in this subchapter which are received by the school district from the sending district for property taxes for the school year, as these funds relate to the total number of school-age children in average daily attendance in the school district for the school year; the amount of federal funds to be remitted shall be the pro rata amount per child of federal funds as defined in this subchapter that are received for the category of all students eligible to receive federal funds who are within the same classification or category of the child with disabilities for which payment is sought.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13.

6-20-507. Children with disabilities — Hearing before hearing officer.

(a)(1) Upon receipt of the written response, the requesting district in which the child is in attendance may, if the request is rejected, make application to the State Board of Education for a hearing officer to be designated to hold a hearing in regard to the request and to report recommendations to the state board.

(2) The hearing shall be held not less than thirty (30) days nor more than sixty (60) days from the date of the request for the appointment of a hearing officer.

(3) The hearing officer shall, at least ten (10) days prior to the hearing, notify the requesting district, the district to which the request is made, and all persons having an interest in or knowledge of the circumstances pertinent thereto, and the notice shall state the time and place of the hearing, which shall be held at a place designated by the hearing officer in a county in which one (1) of the school districts is located.

(4) At the hearing, the designated officials of the affected school districts and other interested parties shall appear and furnish testimony as requested by the hearing officer in regard to the request for the payments in behalf of the child.

(5) Upon conclusion of the hearing or within ten (10) days thereafter, the hearing officer shall file a written report, together with the hearing officer's recommendations, with the state board, with a copy thereof to

be furnished to the superintendent of schools of the affected school districts.

(b)(1) The hearing officer may recommend approval of the request to the state board if the hearing officer determines that:

(A) The application is made by or in behalf of a child with disabilities as defined in this subchapter;

(B) It is in the best interest of the education of the child to be admitted to or to continue to attend school in the receiving district;

(C) The child's educational needs can be better served in the receiving district; and

(D) The request for attendance at the receiving district is not based upon any racial or other reason that might be contrary to the laws and regulations of the United States or of this state or the rules and regulations promulgated by the state board under the provisions of this subchapter.

(2) Any district aggrieved by the report and recommendations of the hearing officer may appeal to the state board within thirty (30) days after the date of the ruling of the hearing officer.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13.

6-20-508. Children with disabilities — Hearing and ruling by State Board of Education.

(a)(1) If a hearing by the State Board of Education is requested in writing by either or both of the affected school districts or any party to the action, at least ten (10) days prior to the next regular state board meeting, the state board shall schedule a hearing in regard thereto and shall give each of the affected districts and the affected parties at least five (5) days' notice of the date, time, and place of the hearing.

(2) On the day and at the time scheduled for the hearing, the state board may hear all interested parties and, upon conclusion thereof, may issue its ruling in regard to the application for payment of funds in behalf of the child with disabilities, and, unless an appeal is filed therefrom with a court of competent jurisdiction within twenty (20) days after the date of such ruling, the ruling shall be final and shall be binding on the school districts and the parties affected.

(b) If no hearing is requested within the time provided in subsection (a) of this section, the state board shall, at its next meeting scheduled after receipt of the hearing officer's report and recommendations, either approve, reject, or modify the ruling and give notice thereof in writing to the school districts involved within five (5) days, and the ruling shall be binding upon the school districts and parties affected unless an appeal is filed with a court of competent jurisdiction within twenty (20) days of the date of the ruling.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13.

6-20-509. Children with disabilities — Sending district’s refusal to pay.

If the ruling of the State Board of Education provides for payment to be made by the sending district in behalf of the education of the child in the receiving district and if the sending district refuses to make payments in the amount approved by the state board, then, upon certification thereof by the receiving district, the state board shall cause the amount of any state, federal, local, or other funds not remitted to the receiving district to be withheld from the next state equalization aid to the district that has failed to make payments and shall remit the funds to the receiving district in compensation for payments not made by the sending district.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13; 1999, No. 391, § 19.

6-20-510. Confidentiality of records.

All files and records that are required by the laws of this state or under the provisions of applicable federal laws or regulations to be kept confidential and all court orders pertaining to the confidentiality of records or prohibiting or limiting the disclosure thereof pertaining to a child living in a foster home or a child with disabilities under the provisions of this subchapter shall be strictly complied with by the respective school districts and by the Department of Education in all correspondence and transactions pertaining to the administration of the provisions of this subchapter.

History. Acts 1981, No. 815, § 5; A.S.A. 1947, § 80-742; Acts 1993, No. 294, § 13.

SUBCHAPTER 6 — LOCAL SCHOOL DISTRICT ISOLATED FUNDING

SECTION.

- 6-20-601. Qualifications for receiving isolated funding.
- 6-20-602. Isolated schools.
- 6-20-603. Continued support of isolated school districts.

SECTION.

- 6-20-604. Additional funding.
- 6-20-605. [Repealed.]

Publisher’s Notes. Former subchapter 6, concerning isolated school districts, was repealed by Acts 1995, No. 917, § 15. The subchapter was derived from the following sources:

- 6-20-601. Acts 1983 (Ex. Sess.), No. 42, § 1; 1983 (Ex. Sess.), No. 64, § 1; A.S.A. 1947, § 80-484.
- 6-20-602. Acts 1983 (Ex. Sess.), No. 42,

§§ 2, 4; 1983 (Ex. Sess.), No. 64, §§ 2, 4; A.S.A. 1947, §§ 80-485, 80-487.

6-20-603. Acts 1983 (Ex. Sess.), No. 42, § 3; 1983 (Ex. Sess.), No. 64, § 3; A.S.A. 1947, § 80-486; Acts 1989, No. 890, § 1; 1995, No. 890, § 1.

6-20-604. Acts 1983 (Ex. Sess.), No. 42, § 5; 1983 (Ex. Sess.), No. 64, § 5; A.S.A. 1947, § 80-488.

Effective Dates. Acts 1997, No. 1318, § 5: Apr. 10, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that the immediate effectiveness of this act is essential to the operation of the school districts that may qualify to receive isolated funding. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1549, § 33: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that not to do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003 (2nd Ex. Sess.), No. 60, § 6: Jan. 29, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) declared the now existing system of education to be unconstitutional because it is both inequi-

table and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one in which the State has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; and the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 21, § 3: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to provide adequate funding for public education, the amount of funding provided to school districts with declining enrollment and the amount of special needs isolated funding provided to school districts with isolated schools should be increased; and that this act is necessary to allow the Department of Education and the Chief Fiscal Officer of the State sufficient time to make all necessary adjustments, calculations, and distributions to provide adequate funding for school districts with declining enrollments and isolated schools that receive special needs isolated funding. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-601. Qualifications for receiving isolated funding.

(a) As used in this section, “isolated school district” means a school district that meets any four (4) of the following five (5) criteria:

(1) There is a distance of twelve (12) miles or more by hard-surfaced highway from the high school of the district to the nearest adjacent high school in an adjoining district;

(2) The density ratio of transported students is less than three (3) students per square mile of area;

(3) The total area of the district is ninety-five square miles (95 sq. mi.) or greater;

(4) Less than fifty percent (50%) of bus route miles is on hard-surfaced roads; and

(5) There are geographic barriers such as lakes, rivers, and mountain ranges that would impede travel to schools that otherwise would be appropriate for consolidation, cooperative programs, and shared services.

(b) An isolated school district shall be eligible to receive isolated funding if:

(1) The school district’s budget is prepared by the local district with Department of Education approval;

(2) The district has an average daily membership of less than three hundred fifty (350); and

(3) The district meets the minimum standards for accreditation of public schools prescribed by law and regulation.

(c) Any school district designated as an isolated school district for the 1996-1997 fiscal year that used geographic barriers as one (1) of the four (4) criteria necessary to receive isolated funding shall be allowed to continue to use geographic barriers as a criterion for future allocations of isolated funding.

(d)(1) State financial aid in the form of isolated funding shall be provided to local school districts qualifying under this section and shall be calculated as follows:

(350-Previous year’s average daily membership) divided by eight hundred fifty (850) times the previous year’s average daily membership times the base local revenue per student.

(2) There shall be two (2) categories of isolated funding:

(A) Category I isolated funding shall be provided to all school districts that qualify under this section; and

(B) Category II isolated funding shall be further provided to those school districts that qualify under this section and have an average daily membership density ratio of less than one and two-tenths (1.2) students per square mile and shall be calculated at fifty percent (50%) of Category I funding.

(3) Those school districts that qualify under this section and whose local revenue per student exceeds the base local revenue per student shall receive isolated funding calculated as follows: (Category I plus Category II) minus (base local revenue per student minus local revenue per student) times the previous year’s average daily membership.

(4) In the event that the statewide amount for isolated funding calculated pursuant to this section is less than the amount appropriated for isolated funding, the State Board of Education may include a funding factor in the calculation in § 6-20-303(14)(A) [repealed] in order to expend up to the appropriated amount.

(e) No school district that may qualify under other law to receive additional state aid because its average daily membership is less than three hundred fifty (350) shall be eligible to receive funding under this section except that a district qualifying under other law for such aid and qualifying for funds under this section may elect to receive funds under this section in lieu of aid under the other.

History. Acts 1997, No. 1318, § 1; 1999, No. 1549, § 21; 2001, No. 1220, § 11.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-20-602. Isolated schools.

(a) "Isolated school" means a school within a school district that:

(1) Prior to administrative consolidation or annexation under this section, § 6-13-1601 et seq., and § 6-13-1405(a)(5) qualified as an isolated school district under § 6-20-601; and

(2) Is subject to administrative consolidation or annexation under this section, § 6-13-1601 et seq., and § 6-13-1405(a)(5).

(b) Any isolated school within a resulting or receiving district shall remain open unless the school board of directors of the resulting or receiving district adopts a motion to close the isolated school or parts thereof by:

(1) Unanimous vote of the full board of directors; or

(2)(A) A majority vote of the full board of directors, but less than a unanimous vote, and the motion is considered by and approved by a majority vote of members of the State Board of Education.

(B) Any school board of directors seeking the state board approval to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section shall:

(i) No less than thirty (30) days prior to a regularly scheduled state board meeting, request a hearing on the matter before the state board and file a petition to have the motion reviewed and approved by the state board.

(ii) The petition shall:

(a) Identify the specific isolated schools or part thereof that the local board of directors has moved to close;

(b) State all reasons that the isolated schools or part thereof should be closed;

(c) State how the closure will serve the best interests of the students in the district as a whole;

(d) State if the closure will have any negative impact on desegregation efforts or violate any valid court order from a court of proper jurisdiction; and

(e) Have attached a copy of the final motion approving the closure by the local board of directors.

(C)(i) Upon receiving a petition for approval of a motion to close all or part of an isolated school under subdivision (b)(2)(A) of this section, the state board shall have the authority to review and approve or disapprove the petition.

(ii) The state board shall only approve a motion to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section if the closure is in the best interest of the students in the school district as a whole.

(iii) The state board shall not close a school if the state board finds that the closure will have any negative impact on desegregation efforts or will violate any valid court order from a court of proper jurisdiction.

(D) The state board is not authorized to require the closure of an isolated school or any parts thereof without a motion from the local board of directors as required under subdivision (b)(2)(A) of this section.

(c) Funding for isolated school districts shall be expended by the resulting or receiving district only on the operation, maintenance, and other expenses of the isolated schools within the resulting or receiving district.

History. Acts 2003 (2nd Ex. Sess.), No. 60, § 5; 2005, No. 1397, § 2.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 60, § 1, provided: “Legislative purpose. The General Assembly declares that this act is necessary to ensure the delivery of an equal opportunity for an

adequate education to the people of Arkansas in an efficient and effective manner.”

Amendments. The 2005 amendment added “unless the school ... thereof by” in (b); and added (b)(1) and (2).

6-20-603. Continued support of isolated school districts.

(a) Upon the effective date of consolidation, annexation, or reorganization, the following school districts that received isolated funding in the 2003-2004 school year shall become isolated school areas for the sole purpose of receiving isolated funding and shall have a per student isolated funding amount as follows:

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
Van Buren	Alread	2,219
Desha	Arkansas City	2,040
Randolph	Biggers-Reyno	763

County <u>Column A</u>	School District <u>Column B</u>	Per Student Isolated Funding Amount <u>Column C</u>
Miller	Bright Star	916
Marion	Bruno Pyatt	329
Dallas	Carthage	1,938
Independence	Cord-Charlotte	235
Woodruff	Cotton Plant	733
Crittenden	Crawfordsville	642
Newton	Deer	853
Greene	Delaplaine	215
Desha	Delta Special	952
Nevada	Emmet	307
Sharp	Evening Shade	115
Ashley	Fountain Hill	339
Yell	Fourche Valley	1,603
Arkansas	Gillett	1,000
Lincoln	Gould	765
Lincoln	Grady	560
Polk	Hatfield	42
Monroe	Holly Grove	868
Arkansas	Humphrey	328
Union	Huttig	668
Cleveland	Kingsland	394
Madison	Kingston	661
Phillips	Lake View	1,054
Searcy	Leslie	628
Lawrence	Lynn	782
Columbia	McNeil	329
Union	Mount Holly	898
Newton	Mount Judea	622
Izard	Mount Pleasant	225
Johnson	Oark	1,576
Montgomery	Oden	671
Saline	Paron	733
Yell	Plainview-Rover	297
Franklin	Pleasant View	679
Randolph	Randolph County	444
Lawrence	River Valley	106
Stone	Rural Special	788
Searcy	Saint Joe	727
Madison	Saint Paul	123
Hempstead	Saratoga	1,407

County	School District	Per Student Isolated Funding Amount
<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
Van Buren	Scotland	1,841
Dallas	Sparkman	487
Ouachita	Stephens	1
Stone	Stone County	367
Jackson	Swifton	458
Columbia	Taylor	353
Howard	Umpire	2,152
Union	Union	45
Columbia	Walker	819
Newton	Western Grove	375
Cleburne	Wilburn	978
Sharp	Williford	475
Washington	Winslow	494

(b) Each school year, state financial aid in the form of isolated funding shall be provided to school districts containing an isolated school area in an amount equal to the prior year's three-quarter average daily membership of the isolated school area multiplied by the per student isolated funding amount for the isolated school areas as set forth under column "C" of subsection (a) of this section.

(c) A school district may not receive isolated funding under this section for an isolated school area if the prior year's three-quarter average daily membership of the isolated school area exceeds three hundred fifty (350).

(d) A school district receiving isolated funding for an isolated school area shall expend the funds solely for the operation, maintenance, and support of the isolated school area.

(e) A school district or isolated school area that may qualify under other law to receive additional state aid because its average daily membership is less than three hundred fifty (350) shall not be eligible to receive funding under this section except that a district qualifying under other law for such aid and qualifying for funds under this section may elect to receive funds under this section in lieu of aid under the other law.

(f) For the purposes of this section, school districts with isolated school areas shall account for the average daily membership of all schools located in the isolated school area as required by the Department of Education and shall submit reports as required by the department.

(g) The department shall distribute isolated funding under this section in two (2) payments per school year.

(h) This section does not determine a school district's qualification as an isolated school district under § 6-20-601 as required to prohibit the closing of an isolated school in § 6-20-602.

(i)(1) A school district eligible to receive isolated funding under this section shall continue to receive partial funding even if all or part of an isolated school is closed.

(2) If all or part of an isolated school in a school district is closed, the school district shall receive funding based on the prior year's three-quarter average daily membership of the isolated school or the part of the isolated school that remains open.

(3) The school district shall not receive funding under this subsection (i) if the closure is directed by the school district board of directors.

(j) The State Board of Education may promulgate rules as necessary for the proper implementation of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 65, § 1; 2007, No. 1573, §§ 29, 30.

Amendments. The 2007 amendment substituted "Each school year" for "Beginning with the 2004-2005 school year and each school year thereafter" in (b); substi-

tuted "three-quarter average daily membership" for "three (3) quarter average daily membership" in (b) and (c); added (i), and redesignated the following subdivision accordingly; and made related and stylistic changes.

6-20-604. Additional funding.

(a) The General Assembly finds that school districts that contain isolated schools need additional funding to provide an adequate education for students attending schools in those school districts.

(b) A school district shall receive special needs funding if the school district meets the requirements of subsections (c)-(f) of this section, and if:

(1) The school district was consolidated or annexed or received an annexed school under § 6-13-1601 et seq.;

(2) The local board of directors by majority vote determines that the isolated school is so isolated that to combine its operation to one (1) school district campus would be impractical or unwise; and

(3) The isolated school or school district:

(A) Filed an affidavit of isolated school status with the State Board of Education during the consolidation or annexation process and the facts of the affidavit are verified by the state board or its designee to meet the requirements of § 6-20-601;

(B) Filed an affidavit of isolated school status with the state board after the consolidation or annexation process or with regard to the 2006-2007 school year no later than June 1, 2006, and the facts of the affidavit are verified by the state board or its designee to meet the requirements of § 6-20-601; or

(C) Filed an affidavit of isolated school status with the state board after the consolidation or annexation process or with regard to the 2006-2007 school year no later than June 1, 2006, and the facts of the affidavit are verified by the state board or its designee to meet the requirements of § 6-20-601 but for the average daily membership requirements of three hundred fifty (350) students or fewer.

(c) A school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to twenty percent

(20%) of the foundation funding received by the school district under § 6-20-2305(a)(2) for the operation of the isolated school areas if the school district has:

(1) School facilities open for kindergarten through grade twelve (K-12) in two (2) or more isolated schools meeting the requirements of subsection (b) of this section;

(2) A three-quarter average daily membership of five hundred (500) or less in the preceding school year; and

(3) A density ratio of one and three-tenths (1.3) students or less per square mile.

(d) A school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to fifteen percent (15%) of the foundation funding received by the school district under § 6-20-2305(a)(2) for the operation of the isolated school areas if the school district has:

(1) School facilities open for kindergarten through grade twelve (K-12) in two (2) or more isolated schools meeting the requirements of subsection (b) of this section and meeting the requirements of § 6-20-601 and if both isolated schools were annexed under § 6-13-1601 et seq.;

(2) A three-quarter average daily membership of five hundred one (501) to one thousand (1,000) in the preceding school year; and

(3) A density ratio of one and four-tenths (1.4) students or less per square mile.

(e) A school district meeting the requirements of subsection (b) of this section shall receive an amount equal to ten percent (10%) of the foundation funding received by the school district under § 6-20-2305(a)(2) based on the three-quarter average daily membership of the isolated school area under § 6-20-2305(a)(2) if the school district has school facilities open for kindergarten through grade twelve (K-12) in one (1) or more isolated schools meeting the requirements of subsection (b) of this section.

(f) A school district shall receive an amount equal to five percent (5%) of the foundation funding received by the school district under § 6-20-2305(a)(2) based on the three-quarter average daily membership of the school district if the school district has a:

(1) Three-quarter average daily membership of less than five hundred (500) students; and

(2) Density ratio of two (2) students or less per square mile.

(g) A school district eligible for special needs funding under this section shall continue to be eligible to receive isolated school funding provided under § 6-20-603 but shall only receive funding under one (1) of the categories established under subsections (c)-(f) of this section.

(h)(1) This section is contingent on the appropriation and availability of funding for its purposes.

(2)(A) Undistributed funds under this section and § 6-20-603 allocated to a school district that is no longer eligible to receive the funding shall be distributed on an equal basis per school district to

each remaining school district that is eligible to receive funds under subsections (c)-(f) of this section.

(B) Funds distributed under subdivision (h)(2)(A) of this section shall be used by the school district only for transportation costs of the isolated schools in the school district.

(3) Funding provided under this section is in addition to and in excess of the amount of funds necessary to provide an adequate education as required by the Arkansas Constitution and cannot be relied upon beyond the 2007-2009 biennium.

History. Acts 2005, No. 1452, § 1; 2006 (1st Ex. Sess.), No. 21, § 2.; 2007, No. 1052, §§ 1, 2; 2007, No. 1573, §§ 31, 32.

Amendments. The 2006 (1st Ex. Sess.) amendment substituted “(f)” for “(e)” in the introductory language of (b); and substituted “with regard to the 2006-2007 school year no later than June 1, 2006” for “August 12, 2005” in (b)(3)(B) and (C).

The 2007 amendment by No. 1052 added the subdivisions designated herein as (h)(2) and (3); and made stylistic changes.

The 2007 amendment by No. 1573 rewrote (a); deleted former (h) and redesignated former (i) as present (h)(1); and made stylistic changes.

6-20-605. [Repealed.]

Publisher’s Notes. This section, concerning a study with the aim of reducing excessive travel times for students, was

repealed by Acts 2007, No. 1573, § 60. This section was derived from Acts 2005, No. 1452, § 2.

SUBCHAPTER 7 — SCHOOL LUNCH PROGRAM

SECTION.

- 6-20-701. Definitions.
- 6-20-702. Administration generally.
- 6-20-703. Disposition of federal funds.
- 6-20-704. Regulation and supervision of accounts, records, and operations.
- 6-20-705. Studies and appraisals — Reports.

SECTION.

- 6-20-706. Acceptance of gifts.
- 6-20-707. Use of funds by school districts.
- 6-20-708. Appropriation of state funds authorized.
- 6-20-709. School lunch menus.

Effective Dates. Acts 1947, No. 157, § 8: Mar. 3, 1947. Emergency clause provided: “It is ascertained and determined that the proper nutrition of school children is necessary for the preservation of

public peace, health, and safety, an emergency is declared to exist, and this act shall be in effect and full force upon and after its passage and approval.”

6-20-701. Definitions.

As used in this subchapter:

- (1) “School” means public tax-supported elementary or high school; and

(2) "School district" means a voluntary corporation organized for educational purposes, having jurisdiction over a political unit of the county government; and

(3) "School lunch program" means a program under which lunches are served by any school in this state on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by Congress.

History. Acts 1947, No. 157, § 1; A.S.A. 1947, § 80-125.

6-20-702. Administration generally.

(a) The State Board of Education may enter into such agreements with any agency of the federal government, with any school district, or with any other agency or person and may prescribe such regulations, employ such personnel, and take such other action as it may deem necessary to provide for the establishment, maintenance, operation, and expansion of any school lunch program and to direct the disbursement of federal and state funds, in accordance with any applicable provisions of federal or state law.

(b) The state board may give technical advice and assistance to any school district in connection with the establishment and operation of any school lunch program and may assist in training personnel engaged in the operation of such program.

History. Acts 1947, No. 157, § 3; A.S.A. 1947, § 80-127.

6-20-703. Disposition of federal funds.

(a) The State Board of Education is authorized to accept and direct the disbursement of funds appropriated by any act of Congress and apportioned to the state for use in connection with school lunch programs.

(b) The state board shall deposit all such funds received from the federal government into a special account and shall make disbursements directly to school districts upon receipt of proper claims prescribed by the state board.

History. Acts 1947, No. 157, § 2; A.S.A. 1947, § 80-126.

6-20-704. Regulation and supervision of accounts, records, and operations.

(a) The State Board of Education shall prescribe regulations for the keeping of accounts and records and the making of reports by or under the supervision of school districts.

(b) These accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for

such period of time, not in excess of five (5) years, as the state board may lawfully prescribe.

(c) The state board shall conduct or cause to be conducted such audits, inspections, and administrative reviews of accounts, records, and operations with respect to school lunch programs as may be necessary to determine whether its agreements with the school district regulations made pursuant to this subchapter are being complied with and to ensure that school lunch programs are effectively administered.

History. Acts 1947, No. 157, § 5; A.S.A. 1947, § 80-129.

6-20-705. Studies and appraisals — Reports.

The State Board of Education is authorized, to the extent that funds are available for that purpose, and in cooperation with other appropriate agencies and organizations, to:

(1) Conduct studies of methods for improving and expanding school lunch programs and promoting nutritional education in the schools;

(2) Conduct appraisals of the nutritive benefits of school lunch programs; and

(3) Report its findings and recommendations to the Governor and to the General Assembly.

History. Acts 1947, No. 157, § 6; A.S.A. 1947, § 80-130.

6-20-706. Acceptance of gifts.

The State Board of Education and any school district may accept any gift for use in connection with any school lunch program.

History. Acts 1947, No. 157, § 3; A.S.A. 1947, § 80-127.

6-20-707. Use of funds by school districts.

Pursuant to any power of school districts to operate or provide for the operation of school lunch programs in schools under their jurisdiction, school districts may use the funds disbursed to them under the provisions of this subchapter, gifts, and other funds received from sale of school lunches for establishment, expansion, and improvement of school lunch programs.

History. Acts 1947, No. 157, § 4; A.S.A. 1947, § 80-128.

6-20-708. Appropriation of state funds authorized.

There is authorized to be appropriated from time to time out of money in the State Treasury not otherwise appropriated such sums as may be necessary to enable the State Board of Education to provide for the

establishment, maintenance, operation, and expansion of school lunch programs, including, but not limited to, the payment of administrative expenses and the matching or supplementing of federal funds.

History. Acts 1947, No. 157, § 7; A.S.A. 1947, § 80-131.

6-20-709. School lunch menus.

(a) In addition to following the dietary guidelines of the National School Lunch Program, each school district shall provide to the school district's school nutrition and physical activity advisory committee:

(1) Information on the requirements and standards of the program; and

(2) Menus for the program and other food sold in the school cafeteria on a quarterly basis.

(b) The school nutrition and physical activity advisory committee shall provide recommendations to the school district concerning menus and other foods sold in the school cafeteria.

(c) The Child Health Advisory Committee, the Child Nutrition Unit of the Department of Education, and the Department of Health shall provide technical assistance as necessary.

History. Acts 2005, No. 2285, § 1.

SUBCHAPTER 8 — REVOLVING LOAN PROGRAM — GENERAL PROVISIONS

SECTION.

- 6-20-801. Continuance of Revolving Loan Fund.
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SECTION.

- 6-20-811. Delivery of obligations — Drawing and receipt of warrant — Use of funds.
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- 6-20-814. Default or threatened default.
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- 6-20-817. Prior loans validated.
- 6-20-818. Loans to education service co-operatives.

Effective Dates. Acts 1953, No. 384, § 19[20]: July 1, 1953.

Acts 1957, No. 80, § 3: Feb. 25, 1957. Emergency clause provided: "It is hereby determined by the General Assembly that

many counties of the State are making substantial progress in equalizing assessments; that a number of counties have not been able to employ appraisal firms to assist in reappraising and equalizing

property due to the fact that a number of school districts would be placed in financial jeopardy if they were required to pay their share of the cost of such reappraisal out of their current tax income; and, that there is an immediate need for the passage of this Act in order that school districts might borrow funds to replace tax money lost to said districts as their pro rata share of the cost of reappraisal of property within the county. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1959, No. 64, § 2: July 1, 1959.

Acts 1967, No. 480, § 5: Apr. 4, 1967. Emergency clause provided: "It is hereby declared that the Revolving Loan Program of the State of Arkansas is essential to the welfare of many School Districts in this State; that the changes made by this act in the Revolving Loan Program are necessary for the effective operation of the Program; and that these changes must go into effect immediately so that the program may continue uninterrupted. It is, therefore, declared that an emergency exists and this act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval."

Acts 1973, No. 59, § 17: Feb. 6, 1973. Emergency clause provided: "It has been found and it is hereby declared by the General Assembly that the existing authority for the financing of the revolving loan program administered by the Board is inadequate and costly in that additional funds could be obtained at less cost if the Board were enabled to borrow from customary sources on a competitive bid basis. Therefore an emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect upon its passage and approval."

Acts 1979, No. 541, § 9: Mar. 23, 1979. Emergency clause provided: "It has been found and it is hereby declared that the Revolving Loan Program of the State Board of Education can no longer be financed, due to the legal inability of participating school districts to pay interest

at rates which would permit the Board to issue its bonds at interest rates acceptable to the market and that school districts are presently in need of the funds customarily provided under the Revolving Loan Program. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval."

Acts 1983, No. 880, § 6: Mar. 28, 1983. Emergency clause provided: "It is hereby found and determined that school districts and the State Board of Education are presently unable to finance essential facilities for public education within the present maximum interest rate limitations on debt obligations issued by the Board and school districts. An emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1185, § 6: Apr. 10, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that there is an immediate need for funds for elementary and secondary education in Arkansas and for funds which may be available for loans to Arkansas school districts pursuant to the revolving loan program operated by the State Board of Education and that, accordingly, the power of the Board to sell revolving loan school district obligations should be clarified and confirmed. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from an after its passage and approval."

Acts 1992 (1st Ex. Sess.), No. 53, § 6: Mar. 17, 1992. Emergency clause provided: "It is hereby found and determined by the General Assembly that bankruptcies and receiverships result in delinquent property taxes which results in substantial financial distress to school districts; this act provides a mechanism for the State Department of Education to loan money to school districts in such instances and should be given effect immediately in order to protect the solvency of those school districts. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the

public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 501, § 5: Mar. 15, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy Ninth General Assembly that the Revolving Loan Program of the State Board of Education is essential to the continued and proper financing of Arkansas school districts and that immediate implementation of the provisions of this act are necessary for the efficient operation of the Revolving Loan Program. Therefore, an emergency is declared to exist and this act, being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 977, § 5: Apr. 9, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly that the Revolving Loan Program of the State Board of Education is essential to the continued and proper financing of Arkansas school districts and that the immediate implementation of the provisions of this act are necessary for the efficient operation of the Revolving Loan Program. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1994 (2nd Ex. Sess.), No. 49, § 5: Aug. 25, 1994. Emergency clause provided: “It is hereby found and determined by the Seventy Ninth General Assembly, meeting in Second Extraordinary Session, that expanding the purposes for which school districts may borrow money from the Revolving Loan Program of the State Board of Education is essential to the financial stability of school districts when local taxes are tied up in court or when insurance claims are being litigated or arbitrated and that immediate implementation of the provisions of this Act are necessary for the efficient operation of the Revolving Loan Program. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1995, No. 913, § 6: Apr. 5, 1995. Emergency clause provided: “It is hereby

found and determined by the General Assembly that present laws with respect to revolving loans to school districts contain restrictions which unduly inhibit current operations of the Revolving Loan Program under the exclusive jurisdiction of the State Board of Education and that the immediate implementation of the provisions of this act are necessary for a more efficient operation of the program. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: “It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state’s public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2003, No. 210, § 4: Feb. 21, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify the maximum lawful rate of interest allowed on such indebtedness prior to the next annual school elections or special election called by the school district to comply with recent court orders, and that this act is immediately necessary because school districts need to restructure their debt in order to comply with recent court orders. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is

neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2006 (1st Ex. Sess.), Nos. 22 and 23, § 6: Apr. 11, 2006. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity that must be corrected immediately; that statutory limitations on bonded indebtedness for school districts may impair some school districts’ ability to raise local resources necessary for the repair, improvement, and replace-

ment of academic facilities; that legislative correction is immediately necessary in order to allow school districts, particularly school districts experiencing rapid growth, to use all available revenue streams in providing an adequate opportunity for an adequate education to every public school student in the state. Therefore, an emergency is declared to exist and this act being necessary for the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-20-801. Continuance of Revolving Loan Fund.

(a) The fund in the State Treasury known as the Revolving Loan Fund shall continue, under the exclusive jurisdiction of the State Board of Education, as the lending fund for the Public School Fund.

(b) All unencumbered assets, both cash and securities, in the Revolving Loan Fund shall remain inviolate and intact as though in the Public School Fund and shall be held by the Treasurer of State, as custodian, subject, however, to its administration by the state board for the purposes provided in this subchapter.

(c) All earnings received on the investment of assets held in the Revolving Loan Fund shall be used for the following purposes, and in the following order of priority:

(1) To pay expenses of the operation of the revolving loan program administered by the state board and the Department of Education; and

(2) To fund revolving loans made pursuant to § 6-20-802 or any like or successor law.

History. Acts 1953, No. 384, § 1; A.S.A. 1947, § 80-941; Acts 1993, No. 501, § 1.

6-20-802. Purposes of loan.

Subject to the conditions and limitations contained in this subchapter, any school district may borrow and the State Board of Education may lend moneys in the Revolving Loan Fund for any of the following purposes:

(1) The funding of its legally issued and outstanding postdated warrants;

(2) The purchase of new or used school buses or the refurbishing of school buses;

(3) The payment of premiums on insurance policies covering its school buildings, facilities, and equipment in instances where the insurance coverage extends three (3) years or longer;

(4) The replacement of or payment of the school district's pro rata part of the expense of employing professional appraisers as authorized by § 26-26-601 et seq. [repealed] or other laws providing for the appraisal or reappraisal and assessment of property for ad valorem tax purposes;

(5) The making of major repairs and the construction of additions to existing school buildings and facilities;

(6) The purchase of surplus buildings and equipment;

(7) The purchase of sites for and the cost of construction thereon of school buildings and facilities and the purchase of equipment for the buildings;

(8) The purchase of its legally issued and outstanding commercial bonds at a discount provided that a substantial savings in gross interest charges can be thus effected;

(9) The refunding of all or any part of its legally issued and outstanding debt, both funded and unfunded;

(10) The purchase of equipment;

(11) The payment on loans secured for settlement resulting from litigation against a school district;

(12) The purchase of energy conservation measures as defined in § 6-20-401; and

(13)(A)(i) The maintenance and operation of the school district in an amount equal to delinquent property taxes resulting from bankruptcies or receiverships of taxpayers.

(ii) Loans to school districts in an amount equal to insured facility loss or damage when the insurance claim is being litigated or arbitrated.

(B) For purposes of this subdivision (13), the loans become payable and due when the final settlement is made, and the loan limits prescribed by § 6-20-803 shall not apply.

History. Acts 1953, No. 384, § 2; 1957, 1992 (1st Ex. Sess.), No. 53, § 1; 1994 No. 80, § 1; 1965, No. 27, § 1; A.S.A. (2nd Ex. Sess.), No. 49, § 1; 1997, No. 1947, § 80-942; Acts 1989, No. 403, § 1; 1265, § 2; 2001, No. 1220, § 12.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-20-803. Loans to local school districts.

The maximum amount of money a local school district may borrow from the Revolving Loan Fund shall be five hundred thousand dollars (\$500,000).

History. Acts 1987, No. 552, § 1; 1995, No. 913, § 1; 2006 (1st Ex. Sess.), No. 22, § 4; 2006 (1st Ex. Sess.), No. 23, § 4.

A.C.R.C. Notes. Former § 6-20-803, concerning the maximum amount of loans, is deemed to be superseded by this section. The former section was derived

from Acts 1953, No. 384, § 3; A.S.A. 1947, § 80-943.

This section was formerly codified as § 19-5-505.

Amendments. The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 22 and 23 deleted former (b).

6-20-804. Application for loan.

(a) The board of directors of any school district desiring to borrow money from the Revolving Loan Fund, acting through its chair or president, and secretary, shall file a formal application with the State Board of Education. The application shall contain the following information:

- (1) The name, number, and location of the school district;
- (2) The date and place of the meeting of the board of directors at which action was taken authorizing its chair or president, and secretary to make formal application for a loan;
- (3) The purpose for which the proceeds of the loan would be used;
- (4) The amount of the assessed valuation of both real and personal property within its boundaries for the then-current year;
- (5) The estimated amount that it proposes to borrow, together with supporting evidence upon which the estimate is based;
- (6) A detailed description of its valid outstanding debt, both funded and unfunded, itemizing the respective amounts thereof, and a statement setting forth the security, if any, pledged to the payment of each classification of the debt;
- (7) The method that it proposes to adopt to secure, and to amortize, any proposed borrowing from the Revolving Loan Fund; and
- (8) Such additional information as may be required by the state board.

(b) Each application shall be executed in duplicate, the original to be filed with the state board and one (1) copy to be retained in the files of the school district.

History. Acts 1953, No. 384, § 4; A.S.A. 1947, § 80-944; Acts 2005, No. 2121, § 13.

Amendments. The 2005 amendment, in (b), substituted "duplicate" for "tripli-

cate," deleted "and one (1) copy thereof" following "original" and inserted "state" preceding "board."

6-20-805. Approval, partial approval, or disapproval of loans.

(a) Within a reasonable time after its receipt, each application shall be examined by the Commissioner of Education as to accuracy with respect to answers contained therein relating to fiscal matters; a

statement of the commissioner's findings, together with the commissioner's recommendations, shall be submitted with the application to the State Board of Education for consideration.

(b) After considering the merits of each application, the state board may, in its discretion, approve the application for the full amount of the proposed loan, approve the application for a loan of a lesser amount than the amount requested, or disapprove the application. The applicant shall forthwith be notified by the commissioner of the action taken by the state board.

(c) The state board may, by resolution, delegate to the commissioner any of the powers or duties vested in or imposed upon it by this subchapter with respect to the approval of loans made from the Revolving Loan Fund in instances in which such loans are to be evidenced by revolving loan certificates of indebtedness.

(d) Such delegated powers and duties may be exercised by the commissioner in the name of the state board.

History. Acts 1953, No. 384, § 5; A.S.A. 1947, § 80-945.

6-20-806. Revolving loan bonds and certificates of indebtedness.

(a) Each such loan that is to be amortized or paid in full, both principal and interest, within or at the end of ten (10) years from the date of its approval by the State Board of Education shall be evidenced by the school district's obligations that shall be designated and known as "revolving loan certificates of indebtedness". Each such loan whose date of final principal and interest maturity extends beyond the ten-year period shall be evidenced by the school district's obligations, which shall be designated and known as "revolving loan bonds".

(b) Revolving loan bonds and revolving loan certificates of indebtedness shall be in such form and denomination, shall have such dates and maturities, shall bear interest payable at such times, and at such rates, but not to exceed the maximum lawful rate as defined below, shall be payable at such place or places, shall contain such provisions as to registration of ownership, if in its opinion registration is desirable, and shall contain such provisions as to redemption prior to maturity at such prices, including such premiums, all as the state board shall determine. The bonds and certificates shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to the provisions as to registration of ownership set forth above.

(c) As used in this section, "maximum lawful rate" means a rate of interest equal to five percent (5%) per annum above the rate for primary credit or its functional equivalent in effect at the Federal Reserve bank in the Federal Reserve district in which Arkansas is located at the time an application for a loan is approved.

(d) The state board shall continually endeavor to keep the interest rates on revolving loan bonds and revolving loan certificates of indebtedness as low as possible, consistent with the continued and assured

funding of the revolving loan program. To this end, the state board will obtain and consider relevant information regarding economic conditions and interest rates on comparable obligations and shall fix and alter interest rates of revolving loan bonds and revolving loan certificates of indebtedness as feasible and appropriate.

History. Acts 1953, No. 384, § 6; 1967, § 80-946; Acts 1995, No. 913, § 2; 2001, No. 480, § 1; 1979, No. 541, § 1; 1981, No. No. 1220, § 13; 2003, No. 210, § 1. 549, § 1; 1983, No. 880, § 2; A.S.A. 1947,

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-20-807. Pledge to secure payment of obligation.

(a) For the purpose of fully securing revolving loan bonds or revolving loan certificates of indebtedness, the issuing school district may pledge any one (1) or more of the following, as shall be determined by the State Board of Education, as a condition precedent to the making of any such loans:

(1) The proceeds of taxes to be collected from a continuing ad valorem tax levy on all of the taxable real and personal property within the bounds of the school district, such levy having been proposed by the board of directors of the issuing school district and approved by a majority of the qualified electors of the school district voting on the proposition at an election called and held according to law;

(2) The per capita apportionment, or any part thereof, allocable to the school district from the Public School Fund;

(3) Any other moneys allocable to the school district by the State of Arkansas, the use of which is not otherwise specifically provided by law;

(4) Any surplus revenues arising each year from taxes voted to meet annual debt service requirements of any other issues of the school district's obligations; and

(5) Any other revenues or resources of the school district that may be legally pledged to secure obligations of the school district.

(b) In the event the proceeds of any such loan are to be used for the retirement of any of its legally issued and outstanding commercial bonds, the school district may, in lieu of the pledge requirements provided in subsection (a) of this section and subject to the approval of the state board, secure the payment of any such loan by the deposit with the state board of all commercial bonds so purchased.

(c) In all instances, the pledge to secure the payment of the revolving loan bonds or revolving loan certificates of indebtedness, both principal and interest, shall be contained in a resolution adopted by the board of directors of the school district.

History. Acts 1953, No. 384, § 7; 1973, No. 59, § 6; A.S.A. 1947, § 80-947.

6-20-808. Pledge of ad valorem tax levy — Duty of county officers.

(a) In each instance in which a loan from the Revolving Loan Fund is to be secured in whole or in part from the proceeds of taxes to be collected from a continuing ad valorem tax levy to be approved by a majority of the qualified electors of the district voting on the proposition at an election, the form of ballot, and all such other things and matters required to be done and passed upon, shall be the same in all respects as though commercial bonds were to be issued. Each such ballot shall reflect:

(1) The total amount of funds which the school district proposes to borrow, and the purposes for which the proposed loan is to be used; and

(2) The number of mills on each dollar of the assessed valuation of taxable property within the bounds of the school district to be levied annually to meet the debt service requirements of the obligations.

(b) Whenever at any such election the electors approve the annual levy of taxes for the purposes aforesaid, it shall be the duty of the clerk of the county court of the county in which the school district is located to present the proposition each year to the levying court of the county on the first day when it is in session for the levy of taxes, and it shall be the duty of the levying court to levy the rate as so presented by the county clerk. In the event that the county clerk shall fail to present the proposition to the levying court or in the event that the levying court shall fail to take affirmative action in respect to the making of such levy, it shall, nevertheless, be the duty of the official required by law to make the extension of taxes on the tax rolls to extend the taxes at the rate so approved by the electors on all taxable real and personal property within the bounds of the school district.

(c) All taxes collected under the levy shall be, by the county treasurer or school district treasurer, set aside and apart from all other funds of the school district for use only for the purpose of meeting the annual debt service requirements of the obligations secured by the pledge of such ad valorem tax levy, provided that any surplus accruing annually from the collection of taxes under any such levy may be, by resolution adopted by the board of directors of the school district, transferred by the county treasurer or school district treasurer to the school district's general operating fund.

History. Acts 1953, No. 384, § 8; A.S.A. 1947, § 80-948; Acts 1995, No. 233, § 15.

6-20-809. Loans secured by district sources other than ad valorem tax levy.

(a) In each instance in which a loan from the Revolving Loan Fund is to be secured in whole by funds derived from sources other than from a specifically voted continuing ad valorem tax levy on the taxable real and personal property within the bounds of the school district, the board of directors of the school district, acting through its chair or

president, and secretary, shall cause to be published by one (1) insertion in a newspaper having a general circulation within the school district a notice of its intention to borrow funds, setting forth therein the amount of funds that it proposes to borrow, the purposes for which the funds are to be used, and the particular funds of the school district that it proposes to pledge to secure the payment of the loan.

(b) In no such instance may a loan be made from the Revolving Loan Fund without the approval of a majority of the qualified electors voting on the proposition at a legally held school election whenever, on or before the fourteenth day next following the publication of any such notice as aforesaid, petitions objecting to such proposed loan containing the signatures of not less than twenty percent (20%) of the qualified electors residing within the school district shall be filed with, and certified as sufficient by, the clerk of the county court of the county in which the school district is located.

(c) In the event, however, that no such petitions shall be filed within the fourteen-day period, or in the event any such petitions that may be filed within the period shall fail to contain the requisite number of valid signatures as certified by the county court clerk, the school district board of directors shall proceed with the making of the loan.

History. Acts 1953, No. 384, § 9; A.S.A. 1947, § 80-949.

6-20-810. Certificate of approval — Instrument negotiable.

(a) Whenever all of the conditions required by this law have been met, the Commissioner of Education shall execute a certificate on each revolving loan bond or revolving loan certificate of indebtedness to the effect that the bond or certificate, and the issue of which it is a part, has been approved by the State Board of Education.

(b) Thereafter, each such revolving loan bond or revolving loan certificate of indebtedness shall be a negotiable instrument.

History. Acts 1953, No. 384, § 10; 384, codified as §§ 6-20-801, 6-20-802, 1959, No. 64, § 1; A.S.A. 1947, § 80-950. 6-20-804 — 6-20-817, and 19-11-602.

Meaning of "this law." Acts 1953, No.

6-20-811. Delivery of obligations — Drawing and receipt of warrant — Use of funds.

(a) All such obligations shall be delivered to the State Board of Education, and coincident therewith the Commissioner of Education shall cause a state warrant to be drawn upon the Revolving Loan Fund or the Revolving Certificate Proceeds Account, payable to the treasurer of the issuing school district if the school district has a treasurer or to the county treasurer of the county in which the school district is located if the school district does not have a treasurer, in an amount equal to the principal amount of the revolving loan bonds or revolving loan certificates of indebtedness.

(b) Upon receipt of the state warrant, the school district treasurer or the county treasurer, as the case may be, shall deposit the proceeds thereof to the credit of the school district, and such funds shall thereafter be used by the school district only for the purposes for which the loan is granted.

(c) All revolving loan bonds or revolving loan certificates of indebtedness shall be negotiable instruments, as set forth in § 6-20-806, and any or all such obligations may be assigned and sold by the commissioner.

(d) Any sale pursuant to subsection (c) of this section shall be in the open market upon not fewer than four (4) invitations for bids and, in consummation of any such sale, the commissioner, or such other person as may be designated by the state board, may execute and deliver such assignments, notices, servicing agreements, and other agreements and writings as may be appropriate.

(e) The proceeds of any sale pursuant to this section shall be deposited in the Revolving Certificate Proceeds Account, subject to payment of the costs of sale and servicing of such revolving loan bonds or revolving loan certificates of indebtedness, as set forth in written instructions executed by the commissioner or such other person as may be designated by the state board.

(f) The state board shall have authority to adopt rules and regulations necessary to implement this section.

History. Acts 1953, No. 384, § 11; A.S.A. 1947, § 80-951; Acts 1991, No. 1973, No. 59, § 7; 1979, No. 541, § 2; 1185, § 1; 1993, No. 977, § 1.

6-20-812. Interest and payments of principal deposited in State Treasury.

(a) Subject to the provisions of subsection (b) of this section, all interest received on securities held in the Revolving Loan Fund shall be deposited into the State Treasury and credited to the Permanent School Revolving Loan Fund.

(b) In the event of the sale of any school district obligations pursuant to § 6-20-811, all principal and interest payments on such school district obligations shall be regarded and treated as cash funds and shall not be deposited into the State Treasury, but shall be deposited into a bank or banks approved by the Commissioner of Education.

History. Acts 1953, No. 384, § 13; 1967, No. 480, § 2; A.S.A. 1947, § 80-953; Acts 1991, No. 1185, § 2.

6-20-813. Principal and interest charge against revenues of school district.

Principal and interest maturities of obligations issued under the provisions of this subchapter shall be a charge against the revenues of

the school district for the fiscal year in which the maturities are respectively due.

History. Acts 1953, No. 384, § 14;
A.S.A. 1947, § 80-954.

6-20-814. Default or threatened default.

(a) In the event of a default or threatened default in the payment of the principal of or interest on any revolving loan bonds or revolving loan certificates of indebtedness, the Commissioner of Education is authorized and directed to withhold from the apportionment otherwise due any borrowing school district, moneys in amounts sufficient to obviate or avoid any default or threatened default.

(b) The Chief Fiscal Officer of the State shall prescribe the method of procedure to be followed in any such event to obviate or avoid any default or threatened default.

(c) Under such rules and regulations as shall be established by the Chief Fiscal Officer of the State, all maturities of principal and interest, as and when due, may be withheld from any such apportionments when mutually agreeable to the commissioner and the board of directors of the debtor school district.

History. Acts 1953, No. 384, § 15;
1973, No. 59, § 8; A.S.A. 1947, § 80-955.

6-20-815. Refunding obligations.

(a) In order that the Revolving Loan Program may be kept on a sound financial basis, school districts having heretofore issued revolving loan bonds or revolving loan certificates of indebtedness are authorized to issue refunding bonds, in the case of revolving loan bonds, and refunding certificates, in the case of revolving loan certificates of indebtedness, herein collectively referred to as refunding obligations.

(b) Refunding obligations may be issued pursuant to the prior approval of the State Board of Education and may bear a higher rate of interest than the bonds or certificates being refunded.

(c) The last maturity date of the refunding obligations must not be later than the last maturity date of the bonds or certificates being refunded.

(d) Refunding obligations shall enjoy the same security for their payment as was enjoyed by the bonds or certificates refunded thereby, including particularly and without limitation, any continuing annual building fund tax voted and pledged to their payment.

(e) Except as to particulars dealt with in this section, refunding obligations shall be governed, insofar as their authorization and security are concerned, by the provisions of this subchapter.

History. Acts 1953, No. 384, § 16, as added by Acts 1967, No. 480, § 3; A.S.A. 1947, § 80-957.

6-20-816. Fees prohibited.

(a) No fees of any nature, fiscal agent’s, legal, or otherwise, shall be paid either directly or indirectly for any service performed with respect to any loan made under the provisions of this subchapter.

(b) Any person who shall give or receive any such fee, or any person who shall use or cause to be used the proceeds of any such loan for any school purpose other than that for which it is made, shall be guilty of a Class B misdemeanor.

History. Acts 1953, No. 384, § 12; A.S.A. 1947, § 80-952; Acts 2005, No. 1994, § 385.

Amendments. The 2005 amendment substituted “Class B misdemeanor” for “misdemeanor and upon conviction shall

be fined in any sum of not more than five hundred dollars (\$500) or imprisoned in the county jail not exceeding six (6) months, or punished by both such fine and imprisonment” in (b).

6-20-817. Prior loans validated.

All outstanding loans evidenced by revolving loan bonds and certificates of indebtedness made under the provisions of the laws or parts of laws repealed by this subchapter are validated, ratified, and confirmed; such evidences of debt are, respectively, found and declared to be the valid and subsisting obligations of the makers in accordance with the terms thereof, and the pledges to secure the payment of such obligations shall continue to be pledged for such purpose.

History. Acts 1953, No. 384, § 17, as renumbered by Acts 1967, No. 480, § 3; A.S.A. 1947, § 80-956.

Publisher’s Notes. Acts 1953, No. 384, § 17 repealed the following laws: Acts 1931, No. 169, §§ 103, 107, 108, 110-126; Acts 1937, No. 162, §§ 8-10; Acts 1939,

No. 91; Acts 1943, No. 176, §§ 1-4; Acts 1943, No. 179, second, third, fourth, and fifth unnumbered paragraphs; Acts 1943, No. 276; Acts 1943, No. 201; Acts 1945, No. 303, second and third unnumbered paragraphs of § 3, § 4; and Acts 1947, No. 178, § 2.

6-20-818. Loans to education service cooperatives.

(a) Subject to the conditions and limitations of this section, any education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq. may borrow, and the State Board of Education may lend, moneys in the Revolving Loan Fund.

(b) The maximum amount of money an education service cooperative may owe the Revolving Loan Fund at any one (1) time is that equal to a six-month’s basic grant for the fiscal year in which a loan is sought.

(c) The board of directors of any education service cooperative desiring to borrow money from the Revolving Loan Fund, acting through its executive director, shall file a formal application with the state board. The application shall contain the following information:

- (1) The name and location of the education service cooperative;

(2) The date and place of the meeting of the board of directors at which action was taken authorizing the executive director to make formal application for a loan;

(3) The estimated amount that it proposes to borrow, together with supporting evidence upon which the estimate is based;

(4) The purpose for which the proceeds of the loan would be used;

(5) The security for the loan and the method and schedule for repayment; and

(6) Such additional information as may be required by the state board.

(d) After considering the merits of each application, the state board may, in its discretion:

(1) Approve the application for the full amount of the proposed loan;

(2) Approve the application for a loan of a lesser amount than the amount requested; or

(3) Disapprove the application.

(e) Each such loan, which is to be paid in full as to both principal and interest within or at the end of ten (10) years from the date of its approval by the state board, shall be evidenced by a certificate executed by the Commissioner of Education. Thereafter, each such certificate shall be a negotiable instrument.

History. Acts 1995, No. 756, § 1; 2001, No. 1220, § 14; 2007, No. 617, § 14.

Amendments. The 2007 amendment inserted “executive” preceding “director” in (c) and inserted “education service” preceding “cooperative” in (c)(1).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

SUBCHAPTER 9 — REVOLVING LOAN PROGRAM — STATE BOARD OF EDUCATION CERTIFICATES

SECTION.	SECTION.
6-20-901. Construction and implementation of subchapter.	6-20-905. Collateral.
6-20-902. Certificates generally.	6-20-906. Authority to purchase certificates.
6-20-903. Execution and validity of certificates.	6-20-907. Revolving Certificate Proceeds Account.
6-20-904. Obligations — Security — Payment.	6-20-908. Tax exemptions — Exception.

Effective Dates. Acts 1967, No. 479, § 10: Apr. 4, 1967. Emergency clause provided: “It is hereby declared that the Revolving Loan Program of the State of Arkansas is essential to the welfare of many school districts in this State; that the authority conferred by this act is necessary for the effective operation of the Revolving Loan Program; and that the money is immediately needed for the proper operation and continuation of the Revolving Loan Program and can be obtained only by the issuance of the Certificates authorized in this act. It is, there-

fore, declared that an emergency exists and this act being necessary for the immediate preservation of the public peace,

health and safety shall take effect and be in force from and after its passage and approval.”

6-20-901. Construction and implementation of subchapter.

(a) This subchapter shall be construed liberally.

(b) In this regard, it is determined and declared that this subchapter is the sole authority necessary for the performance of the acts authorized including, without limitation, the issuance of the certificates.

(c) There is conferred upon the State Board of Education and upon the Board of Trustees of the Arkansas Teacher Retirement System the authority to take all action and do or cause to be done such things as shall be necessary or desirable to accomplish and implement the purposes and intent of this subchapter according to the import hereof.

History. Acts 1967, No. 479, § 8; A.S.A. 1947, § 80-965.

6-20-902. Certificates generally.

(a) In order to obtain funds needed for the proper operation of its Revolving Loan Program, the State Board of Education is authorized to issue from time to time certificates of indebtedness.

(b) The aggregate principal amount of all certificates outstanding at one time may not exceed five million dollars (\$5,000,000).

(c) The certificates may be in such form and denominations, may have such date, may mature at such time, may bear interest payable at such times and at such rates, may be payable at such place or places, may be subject to such terms of redemption prior to maturity at such prices, and may contain such other terms and provisions as the state board shall determine.

(d) The certificates shall be negotiable instruments under the laws of the State of Arkansas.

History. Acts 1967, No. 479, § 1; A.S.A. 1947, § 80-958.

6-20-903. Execution and validity of certificates.

(a) The certificates shall be executed by the manual signatures of the chair and secretary of the State Board of Education.

(b) In case any of the officers whose signatures appear on the certificates shall cease to be that officer before the delivery of the certificates, his or her signature shall nevertheless be valid and sufficient for all purposes.

History. Acts 1967, No. 479, § 2; A.S.A. 1947, § 80-959.

6-20-904. Obligations — Security — Payment.

(a) The certificates shall be obligations of the State Board of Education only, secured by a pledge of the collateral and payable from the proceeds realized from the collateral, as specified in § 6-20-905.

(b) The certificates shall not be obligations of the State of Arkansas and shall not be secured by a pledge of any revenues belonging to the State of Arkansas.

(c) It shall be stated on the face of each certificate that it has been issued under this subchapter.

History. Acts 1967, No. 479, § 4; A.S.A. 1947, § 80-961.

6-20-905. Collateral.

(a) The State Board of Education shall purchase out of the Revolving Certificate Proceeds Account and shall set aside as collateral revolving loan bonds of school districts that bear the same or greater rates of interest and, in the aggregate, equal the principal amount of the certificates with the end in view of ensuring the availability at all times of collateral that will produce sufficient funds to meet interest and principal payments on the certificates as they become due.

(b) The collateral shall either be delivered to the holder of the certificate to which applicable or held as a separate fund for the benefit of the holder.

(c) The collateral must mature at such times as will permit the principal of the certificates to be paid as it becomes due.

(d) The interest and principal payments received on the collateral shall be applied to the payment of the interest on and principal of the certificate to which it is pledged.

(e) The delivery or setting aside of the collateral as provided in this subchapter shall constitute a valid and perfected pledge thereof without more, notwithstanding the provisions of any other law pertaining to pledges and their perfecting which, but for the provisions hereof, would be applicable.

History. Acts 1967, No. 479, § 5; A.S.A. 1947, § 80-962.

6-20-906. Authority to purchase certificates.

(a) The Board of Trustees of the Arkansas Teacher Retirement System, hereinafter called Teacher Retirement Board, is authorized to purchase certificates issued under this subchapter.

(b) Payment may be effected in the State Treasury by charging the Teacher Retirement Fund with the purchase price and crediting the Revolving Loan Fund of the State Board of Education.

(c) Any certificate so purchased by the Teacher Retirement Board shall be delivered to the custodian of the Arkansas Teacher Retirement System.

History. Acts 1967, No. 479, § 6; A.S.A. 1947, § 80-963.

6-20-907. Revolving Certificate Proceeds Account.

- (a) The State Board of Education must receive no less than par and accrued interest for the certificates, which are called “proceeds”.
- (b) The proceeds shall not be deposited in the Revolving Loan Fund and the certificates shall not be considered obligations owned by the state board for purposes of Acts 1963, No. 443 and the obligations of the state board thereunder.
- (c) The state board shall deposit the proceeds in a special fund designated “State Board Certificate Revolving Loan Account”, herein sometimes called “Revolving Certificate Proceeds Account”.
- (d) Any moneys in the Revolving Certificate Proceeds Account not immediately required for the Revolving Loan Program may be invested, pursuant to the direction of the Commissioner of Education, in direct obligations of the United States, and all earnings on investments shall remain in and be part of the Revolving Certificate Proceeds Account.

History. Acts 1967, No. 479, § 3; A.S.A. 1947, § 80-960.
Publisher’s Notes. Acts 1963, No. 443, referred to herein, was a special act con-

cerning the State Board of Education’s purchase of the State Highway Building from the State Highway Commission.

6-20-908. Tax exemptions — Exception.

The principal of and interest on certificates issued under the authority of this subchapter shall be exempt from all state, county, and municipal taxes; this exemption shall include income, inheritance, and estate taxes.

History. Acts 1967, No. 479, § 7; A.S.A. 1947, § 80-964.
A.C.R.C. Notes. Language excluding property taxes from the exemption provided by this section was deleted pursuant to Arkansas Constitution, Amendment 57, § 1, and § 26-3-302. Arkansas Constitution, Amendment 57, § 1, provides that the General Assembly may classify intangible personal property for assessment at

lower percentages of value than other property and may exempt one or more classes of intangible personal property from taxation, or may provide for the taxation of intangible personal property on a basis other than ad valorem. Section 26-3-302 exempts all intangible personal property in this state from all ad valorem tax levies of counties, cities, and school districts in the state as of January 1, 1976.

SUBCHAPTER 10 — REVOLVING LOAN PROGRAM — ALTERNATIVE STATE FINANCING

- SECTION.
- 6-20-1001. Definition.
 - 6-20-1002. Construction.
 - 6-20-1003. Authority to engage and pay for professional help.
 - 6-20-1004. Authority to issue bonds.

- SECTION.
- 6-20-1005. Maximum amount of bonds.
 - 6-20-1006. Authorizing resolution — Nature and contents of bonds.
 - 6-20-1007. Issuance and designation of bonds.

SECTION.

- 6-20-1008. Sale and award of bonds.
- 6-20-1009. Execution of bonds — Signatures.
- 6-20-1010. Deposit of proceeds.
- 6-20-1011. Obligations.
- 6-20-1012. Validation of bonds and certificates.
- 6-20-1013. Tax exemptions.

SECTION.

- 6-20-1014. Investment of retirement system funds.
- 6-20-1015. Refunding bonds.
- 6-20-1016. Prohibition on creation of rights.
- 6-20-1017. Purchase of bonds and certificates by Treasurer of State.

Publisher's Notes. Acts 1973, No. 59, § 15, provided that this subchapter shall be complete and sole authority for the accomplishment of its purposes.

Effective Dates. Acts 1973, No. 59, § 17: Feb. 6, 1973. Emergency clause provided: "It has been found and it is hereby declared by the General Assembly that the existing authority for the financing of the revolving loan program administered by the Board is inadequate and costly in that additional funds could be obtained at less cost if the Board were enabled to borrow from customary sources on a competitive bid basis. Therefore an emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect upon its passage and approval."

Acts 1973, No. 886, § 2: Apr. 18, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the issuance of Revolving Loan Bonds and/or Revolving Loan Certificates of Indebtedness are essential to the operation of the public schools in this State, and that the immediate passage of this Act is necessary to enable the State Treasurer to purchase said Revolving Loan Bonds and/or Certificates of Indebtedness whenever the State Board of Education, or the Director of the Department of Education, acting on the authority of the State Board of Education, shall determine that the purchase thereof by the State Treasurer is necessary in order to provide said Loan funds to school districts. Therefore an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 541, § 9: Mar. 23, 1979. Emergency clause provided: "It has been

found and it is hereby declared that the Revolving Loan Program of the State Board of Education can no longer be financed, due to the legal inability of participating school districts to pay interest at rates which would permit the Board to issue its bonds at interest rates acceptable to the market and that school districts are presently in need of the funds customarily provided under the Revolving Loan Program. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval."

Acts 1980 (1st Ex. Sess.), No. 56, § 3: Jan. 31, 1980. Emergency clause provided: "It is hereby found and determined that the sale of bonds to finance public school construction is not feasible under the existing statutory maximum interest limitations on the sale of school district bonds and State Board of Education Bonds; that construction of school facilities is essential to the efficient operation of the public school system of the state; and the immediate effectiveness of this Act is necessary to enable school districts to sell bonds to finance needed school construction. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval."

Acts 1983, No. 880, § 6: Mar. 28, 1983. Emergency clause provided: "It is hereby found and determined that school districts and the State Board of Education are presently unable to finance essential facilities for public education within the present maximum interest rate limitations on debt obligations issued by the Board and school districts. An emergency is declared to exist and this Act, being immediately necessary for the preserva-

tion of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.”

Acts 2003, No. 210, § 4: Feb. 21, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify the maximum lawful rate of interest al-

lowed on such indebtedness prior to the next annual school elections or special election called by the school district to comply with recent court orders, and that this act is immediately necessary because school districts need to restructure their debt in order to comply with recent court orders. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-20-1001. Definition.

As used in this subchapter, “maximum lawful rate” means a rate of interest equal to five percent (5%) per annum above the rate for primary credit or its functional equivalent in effect at the Federal Reserve bank in the Federal Reserve district in which Arkansas is located at the time a bid for bonds is accepted.

History. Acts 1973, No. 59, § 2; 1983, No. 880, § 3; A.S.A. 1947, § 80-967; Acts 2003, No. 210, § 2.

Publisher’s Notes. Acts 1980 (2nd Ex.

Sess.), No. 2 temporarily authorized local school districts to sell public school bonds at a stated interest rate of ten percent.

6-20-1002. Construction.

(a) This subchapter shall be construed liberally. The enumeration of any object, purpose, power, manner, method, and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, and things.

(b) The provisions of this subchapter are supplemental and shall not be construed to affect in any way the authority of the State Board of Education to issue certificates of indebtedness under the provisions of § 6-20-901 et seq. The certificates are also known as the “state board certificates”.

History. Acts 1973, No. 59, §§ 3, 14; 1979, No. 541, § 4; A.S.A. 1947, §§ 80-968, 80-976.

6-20-1003. Authority to engage and pay for professional help.

The State Board of Education is authorized to engage and pay professional, technical, and other help it shall determine to be necessary or desirable in assisting it to carry out effectively the authorities, functions, powers, and duties conferred and imposed upon it by this subchapter.

History. Acts 1973, No. 59, § 11; A.S.A. 1947, § 80-973.

6-20-1004. Authority to issue bonds.

The State Board of Education is authorized to issue bonds from time to time, as described hereinafter, and to use the proceeds thereof, together with other available funds, for the purpose of financing the operation of the Revolving Loan Program, as administered by the state board pursuant to § 6-20-801 et seq. or any similar law, as set forth herein, paying expenses incidental to the sale and issuance of the bonds, providing for necessary reserves to secure the bonds, and providing for payments of debt service on the bonds until revenues are available.

History. Acts 1973, No. 59, § 1; 1979, No. 541, § 3; A.S.A. 1947, § 80-966.

6-20-1005. Maximum amount of bonds.

The total principal amount of the bonds outstanding at any time shall not exceed fifteen million dollars (\$15,000,000).

History. Acts 1973, No. 59, § 3; 1979, No. 541, § 4; A.S.A. 1947, § 80-968.

6-20-1006. Authorizing resolution — Nature and contents of bonds.

(a) The bonds shall be authorized by resolution of the State Board of Education.

(b) The bonds may be coupon bonds, payable to bearer, or may be registered as to principal only or as to principal and interest, and may be made exchangeable for bonds of another denomination, may be in such form and denomination, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at such times and at such rate or rates, not exceeding the maximum lawful rate, as defined in § 6-20-1001, may be made payable at such places within or without the State of Arkansas, may be made subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the state board shall determine.

(c) The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration, as set forth in subsection (b) of this section.

(d) The authorizing resolution may provide for the execution by the state board of a trust indenture with a bank or trust company within or without the State of Arkansas.

(e) The authorizing resolution or the indenture may contain any other terms, covenants, and conditions that are deemed desirable by the state board, including, without limitation, those pertaining to:

(1) The maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds, and the nature of the security and pledge, as set forth in § 6-20-1011, in that event;

(2) The custody and application of the proceeds of the bonds;

(3) The collection and disposition of revenues;

(4) The investing and reinvesting, in securities specified by the state board, of any moneys during the periods not needed for authorized purposes; and

(5) The rights, duties, and obligations of the state board and of the holders and registered owners of the bonds.

History. Acts 1973, No. 59, § 2; 1980 (1st Ex. Sess.), No. 56, § 2; 1983, No. 880, § 3; A.S.A. 1947, § 80-967.

6-20-1007. Issuance and designation of bonds.

The bonds may be issued at one (1) time or from time to time, and each bond shall bear the designation “Arkansas State Board of Education Consolidated Revolving Loan Bond” and an appropriate designation of the issue or series of which it is a part.

History. Acts 1973, No. 59, § 3; A.S.A. 1947, § 80-968.

6-20-1008. Sale and award of bonds.

(a) The bonds shall be sold at public sale on sealed bids.

(b) Notice of the sale shall be published one (1) time a week for at least two (2) consecutive weeks in a newspaper published in the City of Little Rock and having a general circulation throughout the State of Arkansas, with the first publication to be at least twenty (20) days prior to the date of sale. The notice may be published in such other publications as the State Board of Education may determine.

(c) The bonds may be sold at such price as the state board may accept, including sale at a discount, but in no event shall any bid be accepted that would require the state board to pay interest on the amount received at a rate in excess of the maximum lawful rate.

(d) The award, if made, shall be to the bidder whose bid results in the lowest net interest cost, which shall be determined by computing the aggregate interest cost from date to maturity at the rate or rates bid

and deducting the amount of any premium or adding the amount of any discount.

History. Acts 1973, No. 59, § 2; 1980 (1st Ex. Sess.), No. 56, § 2; 1983, No. 880, § 3; A.S.A. 1947, § 80-967.

6-20-1009. Execution of bonds — Signatures.

(a) The bonds shall be executed by the Chair and the Secretary of the State Board of Education.

(b) The coupons attached to the bonds shall be executed by the facsimile signature of the chair of the state board.

(c) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be officers before the delivery of those bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes.

History. Acts 1973, No. 59, § 2; 1983, No. 880, § 3; A.S.A. 1947, § 80-967.

6-20-1010. Deposit of proceeds.

(a) The proceeds of the sale of the bonds of any issue or series shall be deposited into the State Board Certificate Revolving Loan Account created pursuant to § 6-20-907.

(b) The proceeds shall not be deposited into the Revolving Loan Fund, and none of the pledged obligations identified in § 6-20-1011 shall be held by the Treasurer of State or be considered to have been purchased or to be owned by the State Board of Education for any purpose of Acts 1963, No. 443, as amended.

History. Acts 1973, No. 59, § 3; 1979, No. 541, § 4; A.S.A. 1947, § 80-968.

Publisher's Notes. Acts 1963, No. 443, referred to herein, was a special act con-

cerning the State Board of Education's purchase of the State Highway Building from the State Highway Commission.

6-20-1011. Obligations.

(a) The bonds shall be special obligations of the State Board of Education only, secured as provided herein. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this subchapter, that in no event does it constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged, and that it is not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas or the state board. No member of the state board shall be personally liable on any bond or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purposes and intent of this subchapter unless the member shall have acted with a corrupt intent. The principal of, interest on, and trustee's and paying agent's fees in connection with the bonds shall be secured by a pledge of and shall be

payable from the pledged revenues and the pledged obligations as defined in subsection (c) of this section.

(b) The bonds shall be secured by a pledge of and shall be payable from the payments of principal of and interest on revolving loan certificates of indebtedness or revolving loan bonds of Arkansas school districts acquired by the state board pursuant to § 6-20-801 et seq. or any similar law hereafter enacted, designated by the state board, as set forth in this section.

(c)(1) Each authorizing resolution or indenture shall designate the particular school district revolving loan bonds or revolving loan certificates of indebtedness, also called the pledged obligations, the payments of the principal of and interest on which are to be pledged to payment of the particular issue or series of bonds involved. Such payments are herein referred to as pledged revenues.

(2) Any authorizing resolution or indenture may provide for the release, exchange, and substitution of pledged obligations and for the release of pledged revenues upon terms and conditions set forth therein and may provide for the issuance of additional bonds secured by a pledge or pledges inferior to or on a parity with the pledge or pledges securing the bonds authorized or secured thereby, upon terms and conditions set forth therein.

(d) Each authorizing resolution or indenture shall provide that the pledged obligations shall be delivered to and held by the trustee, as custodian, or shall be held by the state board in such a way as to be segregated from all other assets of the state board, the details in this regard to be set forth in the authorizing resolution or indenture.

(e) The pledged revenues shall be used solely for payment of the principal of, interest on, and trustee's and paying agent's fees in connection with the bonds, but the authorizing resolution or indenture may provide for release of the pledged revenues as set forth in this section.

(f) The pledged revenues are declared to be cash funds, restricted in their use and dedicated and to be used as provided herein. So long as any of the bonds are outstanding, the pledged revenues shall not be deposited into the State Treasury but shall be deposited, as and when received, in a bank or banks selected by the state board from time to time.

(g) Upon payment or discharge of all bonds of any issue or series outstanding to the payment of which any pledged revenues are pledged, the pledged revenues shall, without further action by the state board, be released from the pledge securing such bonds and shall be deposited into the State Board Certificate Revolving Loan Account or shall be otherwise applied to the financing of the Revolving Loan Program.

History. Acts 1973, No. 59, § 4; 1979, No. 541, § 5; A.S.A. 1947, § 80-969.

6-20-1012. Validation of bonds and certificates.

(a) All outstanding revolving loan bonds and revolving loan certificates of indebtedness issued by school districts and acquired by the State Board of Education pursuant to § 6-20-801 et seq. are found and declared to be valid and to evidence obligations of the school districts by which they are issued, according to their terms, and are validated, ratified, and confirmed.

(b)(1) There shall be delivered to the state board, in connection with the acquisition of all revolving loan bonds and certificates of indebtedness, a copy of the resolution of the board of directors of the issuing school district authorizing such obligations, together with a certificate, executed by the president and secretary of the board of directors of the issuing school district, certifying that the action necessary for the valid authorization and issuance of such obligations has been taken, setting forth a description of such action, and, in the case of such obligations secured in whole or in part by a pledge of collections of an ad valorem tax, accompanied by a certificate executed by the county clerk or county clerks of the county or counties in which the issuing school district is located certifying that such tax has been or will be extended for collection and setting out the year in which such collection commenced or will commence.

(2) Upon the delivery to the state board of such resolution and certificate, such obligations covered thereby shall be conclusively deemed to be valid, and the validity of such obligations shall not thereafter be subject to challenge on any ground.

(3) The state board may prescribe the form of the resolution and certificate provided for in this subsection (b).

History. Acts 1973, No. 59, § 5; A.S.A. 1947, § 80-970; Acts 1993, No. 502, § 1.

6-20-1013. Tax exemptions.

Bonds issued under the provisions of this subchapter, and the interest thereon, shall be exempt from all state, county, and municipal taxes, and the exemption shall include income, inheritance, and estate taxes.

History. Acts 1973, No. 59, § 9; A.S.A. 1947, § 80-971.

A.C.R.C. Notes. Language excluding property taxes from the exemption provided by this section was deleted pursuant to Arkansas Constitution, Amendment 57, § 1, and § 26-3-302. Arkansas Constitution, Amendment 57, § 1, provides that the General Assembly may classify intangible personal property for assessment at

lower percentages of value than other property and may exempt one or more classes of intangible personal property from taxation, or may provide for the taxation of intangible personal property on a basis other than ad valorem. Section 26-3-302 exempts all intangible personal property in this state from all ad valorem tax levies of counties, cities, and school districts in the state as of January 1, 1976.

6-20-1014. Investment of retirement system funds.

The board of trustees of any retirement system now existing or hereafter created by the General Assembly may, in its discretion, invest its funds in bonds issued under this subchapter.

History. Acts 1973, No. 59, § 10; A.S.A. 1947, § 80-972.

6-20-1015. Refunding bonds.

(a) Bonds may be issued for the purpose of refunding any bonds issued under this subchapter and for the refunding of any state board certificates issued by the State Board of Education.

(b) Refunding bonds may either be sold or delivered in exchange for the bonds being refunded.

(c) If sold, the proceeds may be either applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the board in the resolution or indenture securing the refunding bonds.

(d) The resolution or indenture securing the refunding bonds may provide that the refunding bonds shall have the same priority of pledge as was enjoyed by the bonds refunded.

(e) Refunding bonds shall be sold and secured in accordance with the provisions of this subchapter pertaining to the sale and security of bonds.

History. Acts 1973, No. 59, § 12; A.S.A. 1947, § 80-974.

6-20-1016. Prohibition on creation of rights.

This subchapter shall not create any right, and no right shall arise under it, until the initial issue or series of bonds authorized by this subchapter shall have been sold and delivered by the State Board of Education.

History. Acts 1973, No. 59, § 13; A.S.A. 1947, § 80-975.

6-20-1017. Purchase of bonds and certificates by Treasurer of State.

(a) The Treasurer of State shall, upon written request of the Commissioner of Education, acting on authority of the State Board of Education, purchase from the state board, at par, plus any accrued interest, revolving loan bonds or revolving loan certificates of indebtedness of school districts in this state whenever the state board shall present them to the Treasurer of State for purchase.

(b) All revolving loan bonds or certificates of indebtedness acquired by the Treasurer of State shall be deposited into the Securities Account

in the State Treasury. However, the Treasurer of State's aggregate holdings at any one (1) time of the revolving loan bonds or revolving loan certificates of indebtedness shall not exceed the sum of fifteen million dollars (\$15,000,000).

(c) The moneys that the Treasurer of State may use in the purchase of any revolving loan bonds or revolving loan certificates of indebtedness shall be those funds available for investment under the provisions of the State Treasury Management Law, § 19-3-501 et seq.

(d) The interest received from investments by the Treasurer of State on revolving loan bonds or revolving loan certificates of indebtedness shall be credited to the Securities Reserve Fund to be used for the same purposes as other moneys deposited into said fund as provided by law.

(e) The Treasurer of State shall sell and redeliver any such revolving loan bonds or revolving loan certificates of indebtedness to the state board, upon request, at a price of par plus accrued interest to the date of such redelivery.

History. Acts 1973, No. 886, § 1; 1979, 1947, § 80-977; Acts 1987, No. 832, § 1; No. 541, § 6; 1981, No. 549, § 2; A.S.A. 1995, No. 1143, § 1.

SUBCHAPTER 11 — REVOLVING LOAN FUND — EMERGENCY REVOLVING LOAN FUND ACCOUNT. [REPEALED.]

SECTION.

6-20-1101. [Obsolete.]

6-20-1102 — 6-20-1108. [Repealed.]

Effective Dates. Acts 1973, No. 218, § 9: Mar. 2, 1973. Emergency clause provided: "The General Assembly finds that certain school facilities in Arkansas have been destroyed by fire or other natural disasters; that the school districts in which such disasters have taken place are without the means to replace said facilities without the emergency loans made available under this Act; that unless such districts may avail themselves of this Act

during the calendar year 1973, their students will be deprived of needed replacements of said facilities for the school year 1973-74; and that said districts may not avail themselves of this Act unless the annual school election held in 1973 is postponed. Accordingly, an emergency is declared to exist, and this Act, being necessary for the public health, safety, and welfare, shall be effective immediately upon its passage and approval."

6-20-1101. [Obsolete.]

A.C.R.C. Notes. This section is deemed to be obsolete in light of the repeal of §§ 6-20-1102—6-20-1108. The section was derived from Acts 1973, No. 218, § 6; A.S.A. 1947, § 80-983. This section read as follows: "6-20-1101. Scope. The author-

ity granted by this subchapter is supplementary and additional to that granted under the revolving loan fund laws, § 6-20-801 et seq., and the existing laws shall be and remain in full force and effect."

6-20-1102 — 6-20-1108. [Repealed.]

Publisher's Notes. These sections, concerning the Revolving Loan Fund, repealed by Acts 1989, No. 784, § 4. They were derived from the following sources:

- 6-20-1102. Acts 1973, No. 218, § 1; A.S.A. 1947, § 80-978.
- 6-20-1103. Acts 1973, No. 218, § 4; A.S.A. 1947, § 80-981.
- 6-20-1104. Acts 1973, No. 218, § 2; A.S.A. 1947, § 80-979.

6-20-1105. Acts 1973, No. 218, § 5; A.S.A. 1947, § 80-982.

6-20-1106. Acts 1973, No. 218, § 3; A.S.A. 1947, § 80-980.

6-20-1107. Acts 1973, No. 218, § 6; A.S.A. 1947, § 80-983.

6-20-1108. Acts 1973, No. 218, § 7; A.S.A. 1947, § 80-984.

SUBCHAPTER 12 — DISTRICT BONDS**SECTION.**

- 6-20-1201. Authority to borrow money and issue negotiable bonds.
- 6-20-1202. Limitations of bonded indebtedness — Conversion of authorized bond issues.
- 6-20-1203. Bonds to comply with existing statutes.
- 6-20-1204. Form of bonds — Security.
- 6-20-1205. Submission of statement prior to issuing bonds — Approval.
- 6-20-1206. Manner and terms of sale — Maximum rate of interest.
- 6-20-1207. Delivery and payment in installments.
- 6-20-1208. Delivery of bonds upon payment in cash — Registration and recording.
- 6-20-1209. Building fund — Establishment and purpose.
- 6-20-1210. Building fund — Use.
- 6-20-1211. Tax records — Separate building fund records.
- 6-20-1212. Resolution setting priority in case of default.
- 6-20-1213. Duty to pay on maturity — Effect of failure.
- 6-20-1214. Obligations on district dissolution.
- 6-20-1215. Approval of bond issues.

SECTION.

- 6-20-1216. Refunding bonds — Authority to use.
- 6-20-1217. Refunding bonds — Debt cancellation procedures.
- 6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.
- 6-20-1219. Record of bond issues.
- 6-20-1220. Refunding bonds — Issuance with election — Validation.
- 6-20-1221. [Repealed.]
- 6-20-1222. Sale of school property securing deed of trust — Release of lien.
- 6-20-1223. Refunding bonds — Issuance without election.
- 6-20-1224. Payment in full — Endorsement and certificate.
- 6-20-1225. Certificates of indebtedness.
- 6-20-1226. Advancements for bond payments by county treasurer prior to settlement date.
- 6-20-1227. Issuance of bonds for funding nonbonded indebtedness.
- 6-20-1228. Issuance of bonds — Refunding of bonded indebtedness — Maintenance and operation of schools.
- 6-20-1229. Issuance of second-lien commercial bonds.

Preambles. Acts 1935, No. 336 contained a preamble which read: "Whereas, many school districts of Arkansas find it absolutely necessary to secure immediate relief from present heavy annual requirements for payment of principal and interest of outstanding bonded indebtedness,

in order to have sufficient revenue available for current operation and maintenance; and

"Whereas, the statutes of Arkansas now provide a method of submitting school bond refunding proposals to a vote of the electors of the respective districts"

Acts 1939, No. 341 contained a preamble which read: "Whereas, many school districts of Arkansas have either paid in full or refunded old bond issues which were secured by deeds of trust naming nonresident trustees, some of whom were banks and trust companies that have since been dissolved and are no longer engaged in business, but the liens of said trust deeds are still unsatisfied and hamper the school district in the disposition or use of its property and especially in the sale or conveyance of any property that has been abandoned for school purposes ..."

Acts 1943, No. 151 contained a preamble which read: "Whereas, school districts in Arkansas, desiring to avail themselves of the beneficial purposes of the federal statutes authorizing the composition of indebtedness of taxing agencies, find that they are not able to reach an agreement with the holders of their outstanding bonds upon the basis of the cash loan value of such bonds, but must make provision for the payment of part of the accrued and past due interest on such bonds;

"Now, therefore ..."

Acts 1947, No. 84 contained a preamble which read: "Whereas, the limitation on bonded indebtedness to seven percent of the assessed valuation set up by section 11493 of Pope's Digest of the Statutes of Arkansas was fixed by Act 169 of 1931 at a time when the school districts of Arkansas were in difficult financial circumstances, and many of them were in default, so that the prevailing rate of interest was from five to six per centum per annum, and interest charges were a very burdensome part of any school debt; and

"Whereas, due to excellent financial management and wise and careful State supervision, the school districts of Arkansas have overcome the unfavorable standing of 1931 and now enjoy a high credit rating and are able to borrow money at low interest rates, so that the interest burden of a present-day loan is much less than the interest burden of the same principal amount in 1931; and

"Whereas, because of the large increase in the cost of construction and equipment, it will be necessary to grant the school districts of the State a greater borrowing power for buildings and equipment;

"Now, therefore ..."

Acts 1951, No. 388 contained a preamble which read: "Whereas, certain school districts in the State of Arkansas now have outstanding bond issues which bond issues require payment of interest and principal prior to the date said districts will receive funds from the County Treasurer accruing under the levy made by the districts for the payment of principal and interest on the bonds, and

"Whereas, certain districts are being required to perpetually execute short term loans to prevent default in bond payments and interest,

"Now, therefore ..."

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1935, No. 63, § 5: approved Feb. 20, 1935. Emergency clause provided: "It is found as a fact that many school districts in the State are closed, or are in danger of being closed because of financial difficulties and pressing indebtedness and there is immediate need for relief to said school districts by enabling them to refund outstanding bonds and prevent the closing of their schools; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1935, No. 336, § 2: became law without Governor's signature, Apr. 4, 1935. Emergency clause provided: "It is

found as a fact that many school districts in the State are closed, or are in danger of being closed because of financial difficulties, and there is immediate need for relief to said school districts by enabling them to refund outstanding bond issues in order to have money for present maintenance and operating expenses, and thus prevent the closing of their schools by suits on defaulted bond issues; therefore it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1939, No. 326, § 4: approved Mar. 15, 1939. Emergency clause provided: "The passage of this act being necessary in order to permit the proper use of school funds of this state and to permit the operation of the schools of this state and the foregoing needs being so urgent as to be necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage."

Acts 1939, No. 341, § 4: effective on passage.

Acts 1941, No. 95, § 5: approved Feb. 26, 1941. Emergency clause provided: "It is hereby ascertained and declared that, because of the unusually low interest rates at which school bonds can now be refunded and the savings that many school districts can make will enable them to hold full term schools, to make better provision to care for the urgent needs of the health and safety of their students, an emergency exists and this act is necessary for the preservation of the public peace, health and safety and shall take effect and be in force from and after its passage."

Acts 1943, No. 151, § 2: Mar. 4, 1943. Emergency clause provided: "Because many school districts of the State have been so badly handicapped by indebtedness that their efficiency has been impaired and they have an opportunity at this time to avail themselves of federal statutes passed for their relief, which opportunity may not continue, an emergency is ascertained and declared and this act, being necessary for the preservation of the public peace, health and safety, shall become effective without delay upon its passage and approval."

Acts 1947, No. 84, § 4: Feb. 18, 1947. Emergency clause provided: "It is hereby ascertained and declared that, because of the serious shortage in schoolhouses and school equipment, there is great danger that many of the school districts in the State will be forced to suspend operation and children of the State will be deprived of the opportunity for education; that an emergency exists and this act, being necessary for the preservation of the public peace, health and safety, shall become effective upon and after its passage and approval."

Acts 1949, No. 161, § 4: approved Feb. 24, 1949. Emergency clause provided: "Because of the urgent demand for new buildings and adequate equipment to service the school needs of the state, and because of the dangerous state of repair of some school buildings, it is hereby ascertained and declared that an emergency exists, and this Act, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage."

Acts 1951, No. 388, § 2: Mar. 20, 1951. Emergency clause provided: "Whereas, certain school districts are having to perpetually execute short term loans which loans involve the payment of double interest, and funds are available in the hands of the treasurer belonging to the district which may be used to prevent the perpetuation of short term loans a saving may be effected by the districts under the provisions of this act and in order to more effectively preserve the public peace, health and general welfare an emergency is found to exist and the provisions of this act shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 43, § 4: Feb. 9, 1965. Emergency clause provided: "It is hereby found and declared that the Board of Directors of the various School Districts of this State may be able to effect substantial savings in total principal and interest payments by issuing refunding bonds authorized by this Act and that the authority conferred hereby should be available as soon as possible in order for said Boards of Directors to be in a position to take advantage of any favorable bond market conditions that may exist. Therefore, an emergency is declared to exist and this Act being essential for the preservation of the public health, safety and welfare shall

take effect and be in force from and after its passage and approval."

Acts 1968 (1st Ex. Sess.), No. 67, § 7: became law without Governor's signature, Feb. 27, 1968. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain school districts in this State which have experienced unusual and rapid growth in enrollment have found it necessary to increase indebtedness to continue to provide a satisfactory level of school services for such increased enrollment; that procedures must be established whereby such school districts may fund their outstanding nonbonded debt existing on the effective date of this act thereby restoring the school district's finances to a manageable basis; and that the immediate passage of this act is necessary to establish authorization and procedure for funding such nonbonded debt, therefore an emergency is hereby declared to exist and portions of this act being immediately necessary for the preservation of the public peace, health and safety, Sections 5 through 7 of this act shall be effective from and after its passage and approval. All other sections of this act shall be effective from and after July 1, 1968."

Acts 1970 (Ex. Sess.), No. 64, § 4: Mar. 13, 1970. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that the financing of the public improvements to which this Act pertains is not feasible under existing maximum interest rate limitations, that the accomplishment of these public improvements is essential to the continued development of this State and the continued improvement of the economic conditions of her people, and that these public improvements can be accomplished only by the immediate effect of this Act. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval."

Acts 1975, No. 220, § 4: Feb. 18, 1975. Emergency clause provided: "It is hereby found and declared that the existing practice of granting mortgages on the property of a school district as security for its bonds is unnecessary to the marketability of the bonds and unduly and unnecessarily hampers the directors of school districts in the

management, control and disposition of properties of the district. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be effective upon its passage and approval."

Acts 1975, No. 596, § 2: Mar. 28, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that a number of school districts in this State in which are situated substantial acreages of National Forest Lands are encountering difficulty in obtaining funds to construct needed classroom buildings and to make other improvements essential to the operation of the schools, and that the immediate passage of this Act is necessary in order to enable school districts to incur additional bonded indebtedness within limitations established herein, upon approval of the State Board of Education at the March, 1975 general election; and, that the immediate passage of this Act is necessary to accomplish said purposes. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1975 (Extended Sess., 1976), No. 1233, § 4: Feb. 16, 1976. Emergency clause provided: "It is hereby found and declared that the various School Districts of this State may be able to effect substantial savings in total principal and interest payments by issuing refunding bonds authorized by this Act and that the authority conferred hereby should be available as soon as possible. Therefore, an emergency is declared to exist and this Act being essential for the preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval."

Acts 1979, No. 460, § 3: Mar. 21, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present limitation on the bonded indebtedness of school districts is creating a serious hardship on some districts in the State; that it is essential to an effective and efficient public school system in some districts that the State Board of Education be permitted to allow districts, in hardship cases, to increase maximum indebtedness to twenty percent (20%) of

the assessed value of property in the district; that this Act is designed to enable the Board to permit such increase and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1980 (1st Ex. Sess.), No. 56, § 3: Jan. 31, 1980. Emergency clause provided: "It is hereby found and determined that the sale of bonds to finance public school construction is not feasible under the existing statutory maximum interest limitations on the sale of school district bonds and State Board of Education Bonds; that construction of school facilities is essential to the efficient operation of the public school system of the state; and the immediate effectiveness of this Act is necessary to enable school districts to sell bonds to finance needed school construction. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval."

Acts 1981, No. 661, § 3: Mar. 23, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the existing bonded indebtedness limit on school districts is too low, and that the limitation is in need of immediate increase, and that this Act so provides. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 812, § 2: Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that nationwide increases in interest rates are making it difficult for many school districts in this State to issue bonds necessary to provide the funds required for construction, repair and improvement of public school facilities within the limitation now imposed by statute on school bonds issued by school districts, and that the immediate passage of this Act is necessary to increase the maximum authorized rate of interest to be paid on school bonds to ten percent (10%) per annum, and that the immediate passage of this

Act is necessary to offer financial relief to school districts in obtaining the funds essential to the public education program in this State. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 880, § 6: Mar. 28, 1983. Emergency clause provided: "It is hereby found and determined that school districts and the State Board of Education are presently unable to finance essential facilities for public education within the present maximum interest rate limitations on debt obligations issued by the Board and school districts. An emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 1018, § 4: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1233 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1989 (3rd Ex. Sess.), No. 64, § 8: Nov. 16, 1989. Emergency clause provided: "It is hereby found and declared that the various school district of this state may be able to effect substantial savings in total principal and interest payments by issuing refunding bonds authorized by this Act and that the authority conferred hereby should be available as soon as possible to permit more monies to be available for the use of the school districts of this state. Therefore, an emergency is declared to exist and this Act being essential for the preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval."

Acts 1991, No. 405, § 6: Mar. 8, 1991. Emergency clause provided: "It is hereby

found and determined by the Seventy-Eighth General Assembly that the Arkansas school districts have an urgent need to replace aging school buses, acquire additional school buses, and refurbish existing buses which were manufactured after 1977 in order to provide safe, dependable and effective transportation for public school students, and that it is necessary to amend existing law to permit school bus financing through the issuance of commercial bonds in order to allow school districts to finance buses at the lowest possible cost. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect upon its passage and approval."

Acts 1994 (2nd Ex. Sess.), No. 43, § 5: Aug. 25, 1994. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that present limitations on the use of negotiable bonds issued by school districts are creating serious hardships for some Arkansas districts; that it is essential to the financial stability of these school districts that they be authorized to issue bonds to pay off and extend certain kinds of short term debt and that the authority conferred hereby should be available as soon as possible. Therefore, an emergency is declared to exist and this Act being essential for the preservation of the public peace, health, and safety shall take effect and be in force from and after its passage and approval."

Acts 1997, No. 1300, § 29: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly that Amendment No. 74 to the Arkansas Constitution was adopted by the electors of this state on November 5, 1996; that Amendment No. 74 became effective on adoption and applies to ad valorem property taxes due in 1997; that the tax books of each county will open for collection of taxes in the near future and that local officials and school districts must have direction on procedures and effects of the various actions required. The General Assembly further finds that Amendment No. 74 requires enactment of legislation to implement the provisions thereof and that this act provides such implementation and should be given effect immediately to accomplish the purposes of

Amendment No. 74 in an orderly, effective and efficient manner. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1329, § 6: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that providing bondholders with additional security for payment of school district bonds will permit Arkansas school districts to issue bonds on more favorable terms and at lower rates of interest, and that this legislation must be in effect in order to permit these benefits to school districts who urgently need to finance capital improvements to their physical facilities and who need to refund certain outstanding bonds that will provide substantial savings to the school district. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1045, § 5: Apr. 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that publication of the notice of sale three times prior to selling school bonds is unnecessary and expensive. To help school districts to cut costs of issuing bonds, this act should be given immediate effect. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is

neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1046, § 9: Apr. 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that under favorable market conditions school districts can issue refunding bonds for the purpose of refunding outstanding bonds at lower rates of interest producing substantial debt service savings in the district; that under current law, districts may not sell or issue refunding bonds without prior approval of the State Board of Education or the Director of the Department of Education; that by the time approval is obtained the market conditions may have changed; that this act is necessary to give school districts greater flexibility in order to take advantage of the most favorable market conditions and produce the greatest debt service savings. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 1999, No. 1549, § 33: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that not to do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 1214, § 2: Mar. 30, 2001. Emergency clause provided: "It is found

and determined by the General Assembly that the existing bonded indebtedness limit on school districts that are facing unexpected, unforeseen or extreme hardship is too low and that the immediate passage of this act is necessary for the increase of the limitation. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003, No. 210, § 4: Feb. 21, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify the maximum lawful rate of interest allowed on such indebtedness prior to the next annual school elections or special election called by the school district to comply with recent court orders, and that this act is immediately necessary because school districts need to restructure their debt in order to comply with recent court orders. Therefore, an emergency is de-

clared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 28, § 10: emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has declared that the current method that the state uses to determine compliance with Amendment 74 to be unconstitutional and has instructed the General Assembly to take action before the termination of the court's stay of its mandate. It is also found that the people must be informed as early as possible the impact of the court's ruling on the property taxes that they pay for education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 105, § 12: Feb. 10, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has declared that the current method that the state uses to determine compliance with Amendment 74 to be unconstitutional and has instructed the General Assembly to take action before the termination of the

court's stay of its mandate. It has also found that the people must be informed as early as possible of the impact of the court's ruling on the property taxes that they pay for education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), Nos. 22 and 23, § 6: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity that must be corrected immediately; that statutory limitations on bonded indebtedness for school districts may impair some school districts' ability to raise local resources necessary for the repair, improvement, and replacement of academic facilities; that legislative correction is immediately necessary in order to allow school districts, particularly school districts experiencing rapid growth, to use all available revenue streams in providing an adequate opportunity for an adequate education to every public school student in the state. Therefore, an emergency is declared to exist and this act being necessary for the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-1201. Authority to borrow money and issue negotiable bonds.

(a) Except as prohibited by subsection (b) of this section, all school districts are authorized to borrow money and to issue negotiable bonds

for the repayment thereof from school funds for the building and equipping of school buildings, for making additions and repairs thereto, for purchasing sites therefor, for purchasing new or used school buses, for refurbishing school buses, for the professional development and training of teachers or other programs authorized under the federally recognized Qualified Zone Academy Bond program, 26 U.S.C. § 1397E, and for paying off outstanding postdated warrants, installment contracts, revolving loans, and lease-purchase agreements, as provided in this act.

(b) No school district shall have the authority to act in accordance with the provisions of subsection (a) of this section from July 16, 2003, through July 1, 2004, without the prior written approval of the State Board of Education or the Commissioner of Education as allowed in emergency situations.

History. Acts 1931, No. 169, § 59; Pope's Dig., § 11492; A.S.A. 1947, § 80-1101; Acts 1991, No. 405, § 1; 1994 (2nd Ex. Sess.), No. 43, § 1; 2001, No. 1220, § 15; 2003, No. 1738, § 4.

Meaning of "this act". Acts 1931, No. 169, codified as §§ 6-10-101 — 6-10-104, 6-10-107, 6-11-101 — 6-11-105, 6-11-106 [repealed], 6-11-107, 6-11-110, 6-11-111, 6-11-117, 6-12-109 [repealed], 6-12-206 [repealed], 6-13-101 — 6-13-104, 6-13-619, 6-13-620, 6-14-104 [repealed], 6-14-

118, 6-16-103 — 6-16-105, 6-16-107, 6-17-101, 6-17-104, 6-17-105 [repealed], 6-17-401, 6-17-405 [repealed], 6-18-217, 6-18-219, 6-18-501, 6-18-507, 6-18-701, 6-19-102, 6-20-202 — 204, 6-20-208 [repealed], 6-20-215 — 6-20-217, 6-20-220 [repealed], 6-20-221, 6-20-222, 6-20-403, 6-20-408 [repealed], 6-20-1201, 6-20-1204 — 6-20-1215, 6-21-101, 6-21-602 [repealed], 6-21-604 — 6-21-606, 6-51-211 — 6-51-215, 26-80-101, 26-80-102, 26-80-104.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

ANALYSIS

Invalid Bonds.
Purpose of Bonds.

Invalid Bonds.

Holder of notes executed by the directors of a school district without authority had no lien on the district's schoolhouse in the construction of which the money was spent. *Rural Special School Dist. No. 50 v. First Nat'l Bank*, 173 Ark. 604, 292 S.W. 1012 (1927) (decision under prior law).

Purpose of Bonds.

Where, under separate laws, school district was authorized to issue bonds for different purposes, a single issue might

suffice for such purposes. *Wilken v. Special Sch. Dist.*, 181 Ark. 1029, 29 S.W.2d 267 (1930) (decision under prior law).

Former section did not authorize school directors to pledge any part of tax as security for a loan that was voted for another purpose. *Horne v. Paragould Special School Dist. No. 1*, 186 Ark. 1000, 57 S.W.2d 568 (1933) (decision under prior law).

Building of a gymnasium, library and auditorium on the school grounds was not an illegal purpose, but a building within the meaning of this section. *Gibson v. State Bd. of Educ.*, 201 Ark. 1165, 148 S.W.2d 329 (1941). See also, *Young v. Linwood School Dist. No. 17*, 193 Ark. 82, 97 S.W.2d 627 (1936).

6-20-1202. Limitations of bonded indebtedness — Conversion of authorized bond issues.

(a) For acquiring a building site, building or equipping a new school building, repairing, making additions to, or equipping a present school building, purchasing new or used school buses or refurbishing school buses, or the professional development and training of teachers or other programs authorized under the federally recognized qualified zone academy bond program codified at 26 U.S.C. § 1397E, any school district of the State of Arkansas is authorized to borrow money and issue negotiable bonds for the repayment thereof from school funds.

(b) Subsection (a) of this section shall not prohibit the conversion of authorized bond issues to bonds bearing a lower rate of interest, subject to the approval of the Commissioner of Education, upon such terms that the school district shall receive no less and pay no more in principal and interest combined than it would receive and pay in principal and interest combined if the bonds were not converted.

History. Acts 1947, No. 84, § 1; 1949, No. 161, § 1; 1961, No. 38, § 1; 1969, No. 158, § 1; 1975, No. 596, § 1; 1979, No. 460, § 1; 1981, No. 661, § 1; A.S.A. 1947, § 80-1102; Acts 1991, No. 405, § 2; 1993, No. 486, §§ 1, 2; 1995, No. 619, §§ 1, 2; 2001, No. 1214, § 1; 2001, No. 1220, § 16; 2006 (1st Ex. Sess.), No. 22, § 5; 2006 (1st Ex. Sess.), No. 23, § 5.

Amendments. The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 22 and 23 deleted “to an amount which together with the bonded indebtedness of the district outstanding at the time of the issu-

ance shall not exceed twenty-seven percent (27%) of the sum of the then-assessed valuation of the real and personal property in the district as shown by the last county assessment, and an equivalent assessed value computed as follows: The average of total annual receipts from federal forest reserve, flood control, and mineral leasing turnback received by the district in lieu of taxes for the three (3) immediately preceding years, divided by forty (40) mills” from the end of (a); deleted “The limitation fixed in” from the beginning of (b); and deleted former (c).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

ANALYSIS

Constitutionality.
Bonded Indebtedness.
Limitation on Bond Issues.

Constitutionality.

Former section authorizing issuance of bonds by school districts was not unconstitutional for attempting to permit the voting of school taxes for purposes not authorized by Ark. Const., Amend. 11. *Lakeside Special School Dist. v. Gaines*, 202 Ark. 778, 153 S.W.2d 149 (1941) (decision under prior law).

Bonded Indebtedness.

Floating indebtedness of a school district for which warrants had been issued in payment of the district's notes was not a bonded indebtedness within former section. *Gaster v. Dermott Sch. Dist.*, 184 Ark. 536, 42 S.W.2d 990 (1931) (decision under prior law).

Limitation on Bond Issues.

A school district which already had issued bonds exceeding allowed percentage of the assessed value of the property in the district could not issue additional bonds not intended to refund present bonded

indebtedness. *Gaster v. Dermott Sch. Dist.*, 184 Ark. 536, 42 S.W.2d 990 (1931) (decision under prior law).

Where proposed issue of funding bonds together with outstanding bonds was less than allowable percentage of assessed valuation of property in the district and buyer of bonds proposed to convert the issued bonds to lower percentage bonds of larger amount, converted bonds, though exceeding the limitation on district's indebtedness, were valid since total amount of converted bonds, principal and interest would be equivalent to total amount, principal and interest of the original bonds. *Lakeside Special School Dist. v. Gaines*,

202 Ark. 778, 153 S.W.2d 149 (1941) (decision under prior law).

Where district had authority to issue bonds up to certain percentage of the assessed valuation of the property in the district, and it already had bonds outstanding, it could issue new bonds to the extent of the difference, but any conversion of the bonds into bonds of a larger amount in an effort to secure a lower rate of interest would be invalid. *Lakeside Special School Dist. v. Gaines*, 202 Ark. 778, 153 S.W.2d 149 (1941) (decision under prior law).

Cited: *Sims v. Hazen School Dist. No. 2*, 215 Ark. 536, 221 S.W.2d 401 (1949).

6-20-1203. Bonds to comply with existing statutes.

All bonds authorized to be issued under this statute shall be issued in full compliance, except as to the limitation on the percentage of assessed valuation set out in Acts 1931, No. 169, § 60 [repealed], with all of the laws governing the issuance of school bonds in effect at the time of their issuance.

History. Acts 1947, No. 84, § 2; A.S.A. 1947, § 80-1103.

6-20-1204. Form of bonds — Security.

(a) School bonds shall be issued by a school district in such form as the directors of the district shall prescribe.

(b) School bonds may be secured by debt service millage.

(c)(1) As additional security for the payment of any bond of a school district, the State Board of Education shall cure any delinquencies in payment by withholding state aid due the district.

(2)(A)(i) Whenever the designated paying agent for receipt of the district's payments does not receive a payment when due pursuant to the authorizing documents, the paying agent will be entitled to payment from the withheld state aid in any amount sufficient to cure the payment deficiency upon notifying the Commissioner of Education and the superintendent of the school district by telephone, facsimile, or other similar communication followed by written verification.

(ii) Unless the commissioner determines that payment has been made by the school district and that there is no longer a payment deficiency, the commissioner shall withhold from the next distribution of state aid and remit to the paying agent an amount sufficient to cure the deficiency.

(B) In the event that the amount next due to be distributed to the delinquent school district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state aid as due and remit it to the paying agent until the payment deficiency has been cured.

(C) If the commissioner is notified that a school district is delinquent on two (2) or more obligations, the commissioner shall make payment to paying agents in the order of receipt of notices of the delinquencies.

(3) If the state board withholds state aid from a school district pursuant to this subsection (c), the school district shall be classified as a Phase III school district in distress as described in § 6-20-1609 [repealed].

(d) Holders of bonds of the school district shall have a first and prior right and security interest in the revenue produced by the debt service millage pledged by the school district to the payment of its bonds.

History. Acts 1931, No. 169, § 61; Pope's Dig., § 11494; Acts 1975, No. 220, § 1; A.S.A. 1947, § 80-1104; Acts 1997, No. 1300, § 17; 1997 No. 1329, § 1. repealed by Acts 2003, No. 1467, § 22. For current law related to school districts in fiscal distress, see the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

A.C.R.C. Notes. Section 6-20-1609 was § 6-20-1901 et seq.

6-20-1205. Submission of statement prior to issuing bonds — Approval.

(a) When any school district board of directors desires to issue bonds for the purposes described in § 6-20-1201, the school district board of directors:

(1) Shall furnish to the Commissioner of Education a statement of the amount proposed to be borrowed and of the maturity of the indebtedness, a financial statement of the affairs of the school district, and a certificate from the county clerk showing the then-assessed valuation of the real, personal, and utility property in the school district; and

(2) Shall not sell bonds until the issue is approved by the State Board of Education or by the commissioner, to be evidenced by a writing signed by the state board or the commissioner and bearing the seal of the state board.

(b) In addition to other reasons for disapproval of a bond issue provided under law or by regulation, neither the state board nor the commissioner shall approve the sale of bonds for the purposes described in § 6-20-1201 if that sale would cause an increase in the millage levy without a vote of the electors of that school district.

(c) The Department of Education is authorized to adopt procedural rules and regulations to enforce the provisions of this section.

History. Acts 1931, No. 169, § 62; Pope's Dig. § 11495; A.S.A. 1947, § 80-1105; Acts 1997, No. 1300, § 18; 1999, No. 1046, § 1; 1999, No. 1549, § 22; 2001, No. 1220, § 17; 2003 (2nd Ex. Sess.), No. 28, § 3; 2003 (2nd Ex. Sess.), No. 105, § 4; 2005, No. 2121, § 14. **Amendments.** The 2005 amendment deleted former (c); and redesignated former (d) as present (c).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

Authority of Director.

Commissioner of Education (now Director of General Education) may approve bond issue only when directed to do so by the State Board of Education, and when such approval is not at the direction of the board the approval is not sufficient. *Dela-
plaine Consol. School Dist. No. 7 v. State*

Board of Education, 196 Ark. 434, 118 S.W.2d 255 (1938).

Cited: *M.W. Elkins & Co. v. Ashby*, 195 Ark. 313, 112 S.W.2d 627 (1938); *Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1*, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-20-1206. Manner and terms of sale — Maximum rate of interest.

(a)(1) All school bonds shall be sold to the highest bidder at public sale.

(2) Advertisement thereof shall be published in at least one (1) newspaper published in the county with the publication to be one (1) time a week for two (2) weeks, the first publication to be at least thirteen (13) days before the date of the sale, and by such other advertisement as the board of directors and the Commissioner of Education shall deem advisable.

(3) At any time after receiving bids on bonds, all bids may be rejected and the bonds readvertised for the time and in the manner herein provided.

(4) The bonds shall bear interest at a rate or rates not exceeding the maximum lawful rate as defined in subsection (b) of this section.

(5) Bonds may be sold at a discount, but in no event shall the school district be required to pay more than the maximum lawful rate of interest on the amount received.

(6) Bonds may be sold with the privilege of conversion into bonds bearing a lower rate or rates of interest, but the school district shall receive no less and pay no more in principal and interest combined than it would receive and pay if the bonds were not converted.

(7) The school district shall pay the expenses of issuing the bonds and may supply the opinion of attorneys approving the validity of the bonds.

(8) No brokerage, agent's fees, or commissions of any kind for securing bids for the sale of school district bonds shall be allowed or paid on any bond sale unless it is approved by the commissioner, and any person giving or receiving it without approval shall be guilty of a Class A misdemeanor.

(b) As used in this section, "maximum lawful rate" means a rate of interest equal to five percent (5%) per annum above the rate for primary credit or its functional equivalent in effect at the Federal Reserve Bank

in the Federal Reserve district in which Arkansas is located at the time a bid for bonds is accepted.

(c) The State Board of Education is authorized to set a maximum rate of interest at which school bonds may be sold under the conditions stated in subsection (a) of this section at any level below the maximum lawful rate.

History. Acts 1931, No. 169, § 63; Pope's Dig., § 11496; Acts 1970 (Ex. Sess.), No. 64, § 1; 1980 (1st Ex. Sess.), No. 56, § 1; 1981, No. 812, § 1; 1983, No. 880, § 1; A.S.A. 1947, § 80-1106; Acts 1999, No. 1045, § 1; 2003, No. 210, § 3; 2005, No. 1994, § 197.

Publisher's Notes. Acts 1980 (2nd Ex. Sess.), No. 2 temporarily authorized local school districts to sell public school bonds at a stated interest rate of ten percent.

Amendments. The 2005 amendment inserted "Class A" in (a)(8).

CASE NOTES

ANALYSIS

Costs and Fees.
Effect of Noncompliance.
Terms of Sale.

Costs and Fees.

Contract of school district with investment company whereby company was to be paid a fee for preparing the necessary papers for refunding a bonded indebtedness but providing for refund of amount of fee proportionate to bonds not refunded was invalid. *M.W. Elkins & Co. v. Ashby*, 195 Ark. 313, 112 S.W.2d 627 (1938).

Effect of Noncompliance.

Though any person may enforce the provisions of this section, yet where bonds

were issued without compliance therewith and the proceeds are received by the district, it will be estopped to assert its own default as also will be its patrons. *Davis v. White*, 171 Ark. 385, 284 S.W. 764 (1926).

Any method by which a sale may be consummated materially varying from statutory provisions would render the transaction invalid. *M.W. Elkins & Co. v. Ashby*, 195 Ark. 313, 112 S.W.2d 627 (1938).

Terms of Sale.

No school bonds may be sold for less than par based on allowable rate. *Lake-side Special School Dist. v. Gaines*, 202 Ark. 778, 153 S.W.2d 149 (1941).

6-20-1207. Delivery and payment in installments.

Bonds may be sold to be delivered and paid for in installments estimated to be as funds will be needed by the school district; but if sold on such terms, they shall be plainly stated in the advertisement of the sale, so that all bidders may bid on equal terms.

History. Acts 1931, No. 169, § 64; Pope's Dig., § 11497; A.S.A. 1947, § 80-1107.

6-20-1208. Delivery of bonds upon payment in cash — Registration and recording.

(a) All school bonds sold shall be sold only for cash on the delivery of the bonds.

(b) The delivery of the bonds to the purchaser and the payment of the full amount of cash to the credit of the school district to the order of the

county treasurer, or school district treasurer if the school district has its own treasurer, shall be simultaneous, and, in order to do this, some responsible bank or trust company may be designated as an escrow agent through which the bonds are to be delivered and the funds received.

(c) The secretary of each school district shall cause all school bonds to be registered in the office of the county treasurer, or the school district treasurer if the school district has its own treasurer, in a book to be kept for that purpose. This record shall show the date, the denomination, the maturity in each year, the place of payments, the rate of interest, and the aggregate amount of the issue, together with the amount of cash for which sold.

(d) Such record books shall be open to public inspection.

(e) Any county treasurer, or school district treasurer if the school district has its own treasurer, failing or refusing to comply with any provisions of this act, and the sureties on his or her official bond, shall be liable to the school district and holders of the school district's bonds for any damages caused thereby, to be recovered by civil action.

History. Acts 1931, No. 169, § 70; **Meaning of "this act".** See note to Pope's Dig., § 11503; A.S.A. 1947, § 80- § 6-20-1201. 1108; Acts 1995, No. 233, § 16.

CASE NOTES

Effect of Noncompliance. transaction invalid. *M.W. Elkins & Co. v. Ashby*, 195 Ark. 313, 112 S.W.2d 627 (1938).
Any method by which a sale may be consummated materially varying from statutory provisions would render the

6-20-1209. Building fund — Establishment and purpose.

All school districts in Arkansas proceeding under this act to borrow money and issue bonds, in addition to other security herein authorized, may and are authorized to establish a building fund in an amount sufficient to pay the maturities of bond principal and interest, as they accrue, of the issue of bonds, that the building fund shall be set aside out of the first revenues of the school district, from whatever source derived, and shall be held by the county treasurer, or school district treasurer if the school district has its own treasurer, solely in the manner and for the purposes set out throughout this act.

History. Acts 1931, No. 169, § 66; **Meaning of "this act".** See note to Pope's Dig., § 11499; A.S.A. 1947, § 80- § 6-20-1201. 1111; Acts 1995, No. 233, § 17.

CASE NOTES

Elections. ing Tax," the taxes so raised could not be
When vote at school election was for used for the retirement of bonds or ac-
"General Tax 18 mills" but against "Build- crued interest since the "building fund" as

defined in this section is for such purpose.
Pledger v. Cutrell, 189 Ark. 562, 74 S.W.2d 646 (1934).

6-20-1210. Building fund — Use.

(a) No part of any building fund shall be used for any other purpose in any year than to pay the bonds and interest thereon maturing that year and any that may be past due, until the maturities are paid in full or until the funds are set aside to pay the full amount of the bonds; provided, the surplus in any year over and above the amount necessary to pay bonds and interest maturing that year, whether hereafter or heretofore issued, may be used by the respective school districts for any other school purposes.

(b) The county treasurer, or school district treasurer if the school district has its own treasurer, shall see to it that all warrants on the building fund of any school district are drawn only to pay maturities of principal or interest on bonds of this school district, other school purposes as herein provided, or past due interest as shown by the records in his or her office, and he or she shall countersign all warrants on the building fund before they are valid.

(c) It is intended that the provisions of this section are to be cumulative and are not to repeal the provisions of any other act now in force except such laws and parts of laws as may be in conflict herewith.

History. Acts 1931, No. 169, § 67; A.S.A. 1947, §§ 80-1112, 80-1113; Acts 1935, No. 63, §§ 1, 3; Pope's Dig., 1995, No. 233, § 18.
§§ 11500, 11506; Acts 1939, No. 326, § 2;

CASE NOTES

Use of Other Funds.

This section does not prohibit a school district from contracting for the use of any otherwise permissive revenues in payment of bonds; it only authorizes districts to use for other school purposes any year's surplus over and above the amount necessary to pay bonds and interests maturing that year. *Houston Sch. Dist. No. 39 v.*

Commercial Nat'l Bank, 199 Ark. 683, 135 S.W.2d 677 (1940).

Pledge to apply to bond purposes all revenues arising from the nine-mill tax was not in derogation of this section. *Houston Sch. Dist. No. 39 v. Commercial Nat'l Bank*, 199 Ark. 683, 135 S.W.2d 677 (1940).

6-20-1211. Tax records — Separate building fund records.

(a) In showing school taxes on the tax books, it shall not be necessary to show separate amounts for the building fund or any other fund that may be created by the school district board of directors, but there shall be one (1) amount extended on the tax books showing the total of the school district tax for that year.

(b) However, the county treasurer, or school district treasurer, if the school district has its own treasurer, shall keep separate records in his or her office showing separately the building fund and shall see to it that on all settlements made with him or her of tax money or state

apportionment money, the building fund is credited with all funds set apart therefor by the electors or by the school district board of directors.

History. Acts 1931, No. 169, § 68; Pope's Dig., § 11501; A.S.A. 1947, § 80-1114; Acts 1995, No. 233, § 19.

6-20-1212. Resolution setting priority in case of default.

On the issuance of any bonds, the school district board of directors may provide by resolution, which shall be a contract with the holders of the bonds, that should there be a default in the payment of any installment of principal or interest when due, the first moneys coming to the school district from any source, other than the uniform rate of tax, shall be paid into the building fund and applied on past due principal or interest on the bonds until paid in full.

History. Acts 1931, No. 169, § 69; Pope's Dig., § 11502; A.S.A. 1947, § 80-1115; Acts 1997, No. 1300, § 19.

6-20-1213. Duty to pay on maturity — Effect of failure.

(a) The school district board of directors and the secretary of the board shall see to it that sufficient funds to meet each maturity of principal and interest of all bonds of their school district are in the place of payment not later than the day before the date of maturity.

(b) Any failure thereof shall be cause for the State Board of Education to withhold any apportionment of school funds that would otherwise be apportioned to that school district and apply them on any past due bonds of that school district.

History. Acts 1931, No. 169, § 73; Pope's Dig., § 11509; A.S.A. 1947, § 80-1116; Acts 1993, No. 294, § 13; 1999, No. 1078, § 80. **Effective Dates.** Acts 1999, No. 1078, § 92: July 1, 2000.

6-20-1214. Obligations on district dissolution.

(a) Dissolution of any school district shall not of itself mature any outstanding bonds or other unmatured obligations of the school district, but the school district to which the territory of the dissolved school district is added shall be liable for the bonds and for the levying of a tax to pay them as herein provided for the obligation of school districts when a school district or a part thereof is annexed to another district.

(b) In addition to the remedy of mandamus to enforce performance of the duties of school officers in the payment of bonds, any bondholder or trustee of such issue may apply to the circuit court having jurisdiction of the territory in which the school district is situated for mandatory orders for the collection of money due from the school district on all bonds for the levy and collection of such taxes.

History. Acts 1931, No. 169, § 75; Pope's Dig., § 11511; A.S.A. 1947, § 80-1117.

6-20-1215. Approval of bond issues.

(a) Before any school district shall issue bonds for the purposes described in § 6-20-1201, the issue shall be approved by the State Board of Education.

(b) If the school district has done everything necessary to comply with the law to authorize it to sell bonds except securing the approval of the state board, and if the state board does not meet for thirty (30) days, then in its discretion, the state board shall have the authority to authorize the Commissioner of Education to approve the issue of bonds.

History. Acts 1931, No. 169, § 77; § 2; A.S.A. 1947, § 80-1118; Acts 1999, Pope's Dig., § 11513; Acts 1949, No. 161, No. 1046, § 2.

CASE NOTES

ANALYSIS

Applicability.
Elections.

Applicability.

This section applies to all bond issues, and approval of State Board of Education is necessary to the validity of any bonds, regardless of the purpose for which issued. *Delaplaine Consol. School Dist. No. 7 v. State Board of Education*, 196 Ark. 434, 118 S.W.2d 255 (1938).

Elections.

Urban school districts could issue bonds without the consent of a majority of the

legal voters, and where they did so and received the contract price, they were estopped to question the legality of the transaction. *Davis v. White*, 171 Ark. 385, 284 S.W. 764 (1926) (decision under prior law).

Bonds issued by the directors of a rural special school district without authority of a majority of the electors were void even if in the hands of a bona fide holder for value. *Rural Special Sch. Dist. No. 30 v. City of Pine Bluff*, 142 Ark. 279, 218 S.W. 661 (1920); *Robertson v. Rural Special School Dist. No. 9*, 155 Ark. 161, 244 S.W. 15 (1922); *Park v. Rural Special School Dist. No. 26*, 173 Ark. 892, 293 S.W. 1035 (1927) (decision under prior law).

6-20-1216. Refunding bonds — Authority to use.

(a) Any school district of Arkansas shall have the right, subject to procedural rules and regulations adopted by the Department of Education, to refund its bonds outstanding at any time. Any department rule or regulation that would prevent or delay a school district from refunding outstanding bonds may be waived by the Commissioner of Education or the commissioner's designee provided that the commissioner or the commissioner's designee determines that it is in the best interest of the school district to proceed with the refunding immediately.

(b) This shall include the right to refund any loan it may at any time have outstanding from the Revolving Loan Fund.

History. Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123; Acts 1999, No. 1046, § 3.

6-20-1217. Refunding bonds — Debt cancellation procedures.

(a) All refunds of school district bonds shall state on their face that they are refunding bonds, and no refunding bonds shall be issued until the debt refunded is cancelled simultaneously with the issue of the refunding bonds either:

(1) By the surrender of the bonds being refunded;

(2) If the outstanding bonds are redeemable before maturity and have been called for redemption, by the deposit of the money for their payment upon presentation, according to the terms of the call, in trust with an escrow agent designated by the Commissioner of Education, and the escrow agent shall be both the place of payment for the bonds and a bank that is a member of the Federal Deposit Insurance Corporation; or

(3) By a combination of the methods set out in subdivisions (a)(1) and (2) of this section.

(b)(1) All refunding bonds shall bear a certificate to be signed by the commissioner that the indebtedness which is refunded has been cancelled.

(2) No refunding bonds shall be valid until this certificate is signed by the commissioner and sealed with the seal of the State Board of Education.

(3) The commissioner shall:

(A) See to it that all refunded bonds are plainly marked cancelled;

(B) Keep a record of such bonds in his or her office and return the cancelled bonds to the school district board of directors that issued them; and

(C) File in the office of the county treasurer in which the bonds were originally registered a certificate showing the numbers, dates, amounts, and maturities of the bonds returned.

History. Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123.

6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.

(a) When the refunding bonds are issued to be exchanged for outstanding bonds, it shall not be necessary to advertise them for sale, but they may be executed and delivered to the Department of Education, and the Commissioner of Education shall, from time to time, as outstanding bonds are presented to him or her for exchange, certify and deliver refunding bonds in face value of the same proportion of the total face value of the refunding bond issue that the face value of the surrendered bonds bears to the total face value of the outstanding bonds to be refunded.

(b)(1) Refunding bonds may be exchanged for outstanding bonds, as provided in this section, or they may be sold for cash and the proceeds used to pay the outstanding bonds, or part of the refunding bonds may be exchanged and part of the refunding bonds may be sold, as the board of directors may deem best for the school district.

(2) In the event that after a school district has exchanged part of a refunding issue that has been converted to a lower interest rate as herein authorized and it becomes necessary or desirable to sell the balance of such a refunding issue to pay the bonds being refunded instead of exchanging them for refunding bonds, the school district may then advertise and sell the balance at the rate of interest to which the issue has been converted.

(c) If the refunding bonds are sold at public sale to refund outstanding bonds that have been called for redemption, they shall be fully executed and delivered to the designated escrow agent who shall have authority to surrender them, on and after the redemption date of the bonds being refunded, to the purchaser upon the deposit with the escrow agent on or before the redemption date of the money necessary for the redemption of the bonds being refunded.

(d)(1) In order to facilitate the refunding of school bonds, any school district issuing refunding bonds may issue certificates of indebtedness maturing in one (1) to five (5) years, payable to bearer and negotiable, to cover the costs of refunding or interest due on outstanding bonds at the time they are exchanged for refunding bonds, or both.

(2) The certificates of indebtedness shall be paid out of the building fund of the school district from any surplus that remains in the building fund in any years after the payment of the full amount of bonds and interest due that year on the refunding issue.

(3) Any certificates of indebtedness issued in connection with an issue of refunding bonds shall be registered by the county treasurer.

(4) All certificates of indebtedness thus issued and registered shall not be invalidated because at the time of their issuance or at their maturity date there is not a surplus in the building fund available for their payment, but they shall continue as valid obligations of the school district until such a surplus in the building fund has accumulated for their payment.

History. Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123; Acts 2005, No. 2121, § 16.

Publisher's Notes. Acts 1941, No. 95, § 1, provided, in part, that all refunding bond issues which had been issued in substantial accordance with the provi-

sions of §§ 6-20-1216 — 6-20-1219 were approved and validated.

Amendments. The 2005 amendment deleted former (a) and (b); and redesignated the remaining subsections accordingly.

CASE NOTES

ANALYSIS

Approval of Department of Education.
Combining Bond Issues.

Approval of Department of Education.

The Department of Education was made the final arbiter of the propriety of terms of conversion of school district bonds, and the courts, in the absence of fraud, will not go behind the department's finding. *Wall v. Eudora Special Sch. Dist.*, 202 Ark. 904, 154 S.W.2d 12 (1941) (decision under prior law).

Where Department of Education approved the conversion of school district's bonds through a refunding, and its figures showed a small saving thereby, court, in

suit by taxpayer, would not declare the refunding issue invalid on ground that the conversion would cost the district more than the bonds to be refunded. *Wall v. Eudora Special Sch. Dist.*, 202 Ark. 904, 154 S.W.2d 12 (1941) (decision under prior law).

Combining Bond Issues.

School district having power to issue refunding bonds and also new bonds for repairs and equipment could combine the two issues into one bond issue since it would be a simple matter to designate refunding bonds as such. *Bay Special Consolidated School Dist. No. 21 v. Hall*, 194 Ark. 423, 107 S.W.2d 347 (1937) (decision under prior law).

6-20-1219. Record of bond issues.

In a book prepared for that purpose, the county treasurer, or school district treasurer if the school district has its own treasurer, shall keep in his or her office a full and complete record of all bond issues outstanding at the present time or to be issued hereafter showing the date of the issuance, the amount, the date of maturity, the rate of interest, and the dates and the amounts of payment thereon so that any interested persons may ascertain the true financial status of the school district's bonded indebtedness.

History. Acts 1941, No. 95, § 2; A.S.A. 1947, § 80-1124; Acts 1995, No. 233, § 20.

6-20-1220. Refunding bonds — Issuance with election — Validation.

Refunding bonds issued by any school district of the State of Arkansas, when authorized at any general or special school election by a vote of the electors of the school district for a continuing building fund to retire refunding bonds, shall be the valid, legal, and binding obligations of the school district provided that the issuance of the refunding bonds is approved by the State Board of Education or the Commissioner of Education prior to the issuance of the refunding bonds.

History. Acts 1935, No. 336, § 1; A.S.A. 1947, § 80-1125; Acts 1999, No. 1046, § 4.

6-20-1221. [Repealed.]

Publisher's Notes. This section, concerning refunding bonds and certification

of surrender, was repealed by Acts 2005, No. 2121, § 17. The section was derived

from Acts 1939, No. 341, § 2; A.S.A. 1947, § 80-1127.

6-20-1222. Sale of school property securing deed of trust — Release of lien.

(a) When any school district of Arkansas desires to abandon any property for school purposes and to sell and convey the property and use the proceeds for either repairs or new construction of buildings for school purposes of the school district, the trustee of the deed of trust securing any bond issue of the school district and including the land so to be abandoned, sold, and conveyed shall have the power, if the trustee deems it to be to the best interest of the school district, to release the land to be sold or conveyed from the lien of the deed of trust by which the trustee is appointed.

(b) The release may be either by endorsement of the trustee, if an individual, or by endorsement by one (1) of the corporate officers of the trustee, if a corporation, on the margin of the record of the deed of trust, or by a separate instrument executed and placed on record in the county in which the land is situated.

History. Acts 1939, No. 341, § 3; A.S.A. 1947, § 80-1128.

6-20-1223. Refunding bonds — Issuance without election.

(a) School districts of this state may issue refunding bonds without the necessity of submitting the question of issuing the refunding bonds to a vote of the electors of the school district and without the approval of the State Board of Education provided that:

(1) The last maturity date of the refunding bonds is not later than the last maturity date of the bonds being refunded;

(2) The total amount required to pay principal and interest of the refunding bonds as they become due and payable, as well as any issuance costs required to be paid by the school district, exclusive of issuance costs paid from the proceeds of the refunding bonds, must be less than the total amount required to pay principal and interest of the bonds being refunded as they become due and payable; and

(3) The issue has been approved by the Commissioner of Education or the commissioner's designee subject to Department of Education rules and regulations.

(b)(1) Refunding bonds, authorized by a resolution of the board of directors of the school district issuing them, may enjoy the same security for their payment as was enjoyed by the bonds refunded thereby, including particularly, and without limitation, any continuing annual building fund taxes voted and pledged to the payment of the bonds refunded thereby, except that, in all school districts operating pursuant to federal court desegregation decrees, the refunding bonds may, but shall not be required to, enjoy the same security for payment as was enjoyed by the bonds refunded.

(2) Except as to the particulars dealt with in this section, refunding bonds shall be governed insofar as their authorization and security are concerned by provisions of existing law.

History. Acts 1965, No. 43, § 1; 1975 (Extended Sess., 1976), No. 1233, § 1; A.S.A. 1947, § 80-1131; reen. Acts 1987, No. 1018, § 1; Acts 1989 (3rd Ex. Sess.), No. 64, § 1; 1999, No. 1046, § 5.

A.C.R.C. Notes. This section was reenacted by Acts 1987, No. 1018, § 1. Acts

1987, No. 834, provided that 1987 legislation reenacting acts passed in the 1976 Extended Session should not repeal any other 1987 legislation and that such other legislation would be controlling in the event of conflict.

6-20-1224. Payment in full — Endorsement and certificate.

When any school district of Arkansas has paid in full all the bonds of any issue secured by an executed deed of trust with a nonresident trustee or with a trustee who since his or her appointment has become unable to serve, it shall be permitted through the school district's secretary to endorse the fact of payment upon the margin of the record of the deed of trust securing the bonds and to this shall be added the certificate of the circuit clerk if the school district can exhibit to him or her all of the paid and cancelled bonds and coupons.

History. Acts 1939, No. 341, § 1; A.S.A. 1947, § 80-1126.

6-20-1225. Certificates of indebtedness.

(a) Any school district of Arkansas filing a petition in United States District Court for the composition of its bonded indebtedness and having more than five (5) years' past due interest on bonds being purchased at a discount, in order to facilitate such purchase, shall have the right to issue certificates of indebtedness payable, without interest over a period of five (5) years, from the surplus in the building fund and any other available revenue that the school district may pledge, for an amount not to exceed two (2) years' interest on the bonds being purchased and not to exceed two percent (2%) of the assessed valuation of all taxable property in the school district as shown by the last county assessment and may pledge the surplus and available revenue for their payment.

(b) In any case in which a school district has heretofore issued certificates of indebtedness under substantially the conditions outlined in subsection (a) of this section, such action of the school district is approved and confirmed and the certificates of indebtedness so issued are declared to be the binding obligations of that school district, provided their issuance has been ordered or approved by the United States District Court in which the petition for composition of debt was filed.

History. Acts 1943, No. 151, § 1; A.S.A. 1947, § 80-1129.

6-20-1226. Advancements for bond payments by county treasurer prior to settlement date.

In all school districts of the State of Arkansas that have voted a bond issue that calls for the payment of interest and principal prior to the date of settlement by the county treasurer with the school district of funds collected under a levy made by the school district for the purpose of retiring principal and interest of bond issue, the county treasurer is authorized to advance to the school district prior to the date of settlement and on the date payment is due a sum sufficient for the payment of principal and interest accruing under the bond issue out of the moneys held by him or her for the school district.

History. Acts 1951, No. 388, § 1; A.S.A. 1947, § 80-1130.

6-20-1227. Issuance of bonds for funding nonbonded indebtedness.

(a) Any school district of Arkansas that has nonbonded indebtedness at the time of the passage of this act is authorized and empowered in the manner to be prescribed by regulations of the State Board of Education, upon written justification therefor approved by the state board, to issue bonds for the purpose of funding nonbonded indebtedness. These bonds shall not be for a period of more than ten (10) years. The board of directors of any school district issuing bonds under the provisions of this act shall pledge moneys in the general operating fund of the school district and moneys accruing to such school district from the Public School Fund of the State of Arkansas that are not otherwise pledged for teacher salaries or other dedicated purposes as collateral and security for the bonds.

(b) Before any school district shall request the state board for authority to issue bonds to fund the school district's nonbonded debt, the school district board of directors shall, by a resolution entered upon its records, declare the total amount of the nonbonded indebtedness of the district outstanding as of June 30 preceding the date of such notice, also stating the reasons and justification for issuing bonds to fund the nonbonded indebtedness. The resolution shall be published immediately, and at least two (2) weeks prior to the funding, for one (1) insertion in some newspaper published in the county in which the school district is domiciled. Anyone in the school district who is dissatisfied may, by a suit in the circuit court of the county, brought within thirty (30) days after the date of the publication, have a review of the correctness of the findings and justification made in the resolution. If no suit is brought within thirty (30) days after the date of publication, the findings in the resolution shall be conclusive both as to the total amount of the indebtedness and as to its validity and shall not be open to further attack. If the suit is brought, the adjudication shall settle the question, and any appeal taken therefor must be taken and perfected within thirty (30) days. The school district board of directors

may request the Audit Section of the Division of Legislative Audit or the Commissioner of Education to cause an audit to be made of any and all records of the district or of the county treasurer's records in order to assist the school district board of directors in determining the exact amount of the nonbonded indebtedness outstanding on June 30 preceding the date on which the resolution is adopted.

(c) Any school district director who shall willfully make any false statement as to the amount of nonbonded indebtedness of the school district of which he or she is a director shall forfeit his or her office and be ineligible to hold any other office of profit or trust in the State of Arkansas.

(d)(1) Bonds issued under the provisions of this act to fund a school district's nonbonded debt shall be obligations of the school district and the individual members of the board of directors of such school district shall not be personally liable therefor unless such school district board members were guilty of fraud in the issuance of such bonds.

(2) No election by the electors of the school district shall be required to approve the issuance of bonds to fund the school district's nonbonded indebtedness under the provisions of this act.

History. Acts 1968 (1st Ex. Sess.), No. 67, § 5; A.S.A. 1947, § 80-1132.

Publisher's Notes. In reference to the term "passage of this act," Acts 1968 (1st Ex. Sess.), No. 67 was signed by the Governor and became effective on July 1,

1968, except that §§ 5-7 became effective because of an emergency clause on February 27, 1968.

Meaning of "this act". Acts 1968 (1st Ex. Sess.), No. 67, codified as §§ 6-11-120, 6-20-1227.

6-20-1228. Issuance of bonds — Refunding of bonded indebtedness — Maintenance and operation of schools.

(a) Any school district of this state is authorized to sell bonds in an amount not to exceed an amount equal to the principal amount of the bonds refunded as originally issued for the purposes of refunding all or any part of its bonded indebtedness outstanding at the time of passage of this act, and of providing funds for maintaining and operating schools in the school district. Such bonds may be sold with the privilege of conversion as provided in this subchapter.

(b) Issuance of the bonds shall be subject to the approval of the State Board of Education and to the approval by the electors of the school district of a continuing annual tax for retirement of the bonds.

History. Acts 1991, No. 689, § 1; 1993, No. 481, § 1.

Publisher's Notes. In reference to the term "time of passage of this act," Acts

1991, No. 689, was signed by the Governor on March 21, 1991, and became effective July 15, 1991.

6-20-1229. Issuance of second-lien commercial bonds.

(a) As used in this section:

(1) "Issue", "issuance", or some variety thereof means the date upon which a second-lien bond is actually sold; and

(2) "Second-lien bond" means a commercial bond issued under the authority set forth in § 26-80-106.

(b) All second-lien bonds issued by school districts shall have semi-annual interest payments, with the first interest payment due within eight (8) months of the issuance of the second-lien bond. All second-lien bonds shall be repaid on payment schedules that are either:

(1) Equalized payments in which the annual payments are substantially equal in amount; or

(2) Decelerated payments in which the annual payments decrease over the life of the schedule.

History. Acts 2001, No. 1220, § 18; 2005, No. 2121, § 15.

Amendments. The 2005 amendment repealed (c) and (d).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

SUBCHAPTER 13 — ANNUAL REPORTS OF EXPENDITURES

SECTION.

6-20-1301 — 6-20-1304. [Repealed.]

6-20-1301 — 6-20-1304. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1999, No. 100, § 12. The subchapter was derived from the following sources:

6-20-1301. Acts 1983 (Ex. Sess.), No. 9, § 4; A.S.A. 1947, § 80-483.

6-20-1302. Acts 1983 (Ex. Sess.), No. 9, § 1; A.S.A. 1947, § 80-480.

6-20-1303. Acts 1983 (Ex. Sess.), No. 9, § 2; A.S.A. 1947, § 80-481.

6-20-1304. Acts 1983 (Ex. Sess.), No. 9, § 3; A.S.A. 1947, § 80-482.

SUBCHAPTER 14 — STATE AID FOR CONSTRUCTION

SECTION.

6-20-1401. Rules and regulations.

6-20-1402. [Repealed.]

6-20-1403 — 6-20-1405. [Repealed.]

SECTION.

6-20-1406. [Repealed.]

6-20-1407. Approval of building plans.

6-20-1408. [Repealed.]

Effective Dates. Acts 2005, No. 1426, § 7: Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods

for bringing those facilities into conformity with the court's constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that this program must be implemented immediately for the good of public school students in the State of Arkansas. Therefore, an emer-

gency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by

the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-20-1401. Rules and regulations.

The State Board of Education is authorized to make rules and regulations not inconsistent with the provisions of this subchapter that it shall find necessary to accomplish the purposes of this subchapter.

History. Acts 1949, No. 230, § 8; A.S.A. 1947, § 80-3508.

6-20-1402. [Repealed.]

Publisher’s Notes. This section, concerning authority to borrow money, was repealed by Acts 2005, No. 1426, § 2. The

section was derived from Acts 1949, No. 230, § 4; A.S.A. 1947, § 80-3504.

6-20-1403 — 6-20-1405. [Repealed.]

Publisher’s Notes. These sections, concerning the authority to spend from the Public School Fund, the determination of aid amount, and eligibility, were repealed by Acts 1993, No. 294, § 13. They were derived from the following sources:

- 6-20-1403. Acts 1949, No. 230, § 1; A.S.A. 1947, § 80-3501.
- 6-20-1404. Acts 1949, No. 230, § 2; A.S.A. 1947, § 80-3502.
- 6-20-1405. Acts 1949, No. 230, § 3; A.S.A. 1947, § 80-3503.

6-20-1406. [Repealed.]

Publisher’s Notes. This section, concerning standards for school construction, was repealed by Acts 2007, No. 989, § 1.

The section was derived from Acts 1949, No. 230, § 5; A.S.A. 1947, § 80-3505; Acts 1997, No. 1226, § 1; 2005, No. 1426, § 3.

6-20-1407. Approval of building plans.

(a) No new schoolhouse shall be built except in accordance with the plan finally approved by the Commission for Arkansas Public School Academic Facilities and Transportation for all projects in which the commission requires its approval.

(b) A copy of approved plans and specifications of all new schoolhouses or additions shall be filed with and approved by the commission before construction shall be commenced.

(c) The approval process established by the commission shall include review and approval by all appropriate and applicable state agencies, boards, and local officials necessary to meet the standard contained in the Arkansas Public School Academic Facility Manual.

(d)(1) A copy of final construction documents shall be submitted to the Architectural Section of Arkansas Building Authority for review in regard to compliance with the Arkansas-adopted Accessibility Guidelines (ADAAG-Americans with Disabilities Act Accessibility Guidelines).

(2) All review comments received from the authority shall be in writing.

(3) Corrected construction documents shall be received and approved by the Arkansas Building Authority.

(4) No project shall be released for bidding or construction until the requirements of this section are met.

(e) Review and approval of plans under this section or otherwise shall not be a guarantee of state financial participation in any public school academic facilities project.

(f)(1) As used in this subsection (f), a "self-funded project" is a project that is one hundred percent (100%) raised and funded by the school district.

(2) The project shall be approved upon compliance with state codes and standards.

(3) A self-funded project may be submitted in the form of an appendix to the existing school district master plan at any time.

History. Acts 1949, No. 230, § 6; A.S.A. 1947, § 80-3506; Acts 1997, No. 1226, § 2; 2005, No. 1426, § 4; 2007, No. 989, § 2.

Amendments. The 2005 amendment, in (a), substituted "Commission for Public School Academic Facilities and Transportation" for "State Board of Education" and "commission" for "board" and deleted "thereof" from the end; substituted "Arkansas Building Authority" for "Arkansas State Building Services" in (c)(1); and added (d).

The 2007 amendment deleted "When so required by the commission" from the beginning of (b); inserted present (c) and redesignated the remaining subsections accordingly; deleted "§ 6-20-1406 and" preceding "this section" in present (d)(4); and added (f).

U.S. Code. The Americans with Disabilities Act, referred to in this section, is codified primarily as 42 U.S.C. § 12101 et seq.

CASE NOTES

Cited: *Lavender v. Rogers*, 232 Ark. 673, 339 S.W.2d 598 (1960), see also, *Lavender v. Rogers*, 233 Ark. 161, 343 S.W.2d

103 (1961); *Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist.* No. 1, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-20-1408. [Repealed.]

Publisher's Notes. This section, concerning aid from the state School Building Fund, and the filing of an application therefor, was repealed by Acts 1993, No.

294, § 13. The section was derived from Acts 1949, No. 230, § 7; A.S.A. 1947, § 80-3507.

SUBCHAPTER 15 — INSURANCE ACT

SECTION.

6-20-1501. Title.

6-20-1502. Establishment of insurance system.

6-20-1503. State Insurance Department — Powers and duties regarding insurance for public elementary and secondary schools.

6-20-1504. [Repealed.]

6-20-1505. Information to be furnished.

6-20-1506. Finding of uninsurability — Effect.

SECTION.

6-20-1507. Premium rate and payment.

6-20-1508. Appraisal and payment of losses.

6-20-1509. Effect of federal assistance.

6-20-1510. [Repealed.]

6-20-1511. Permanent Insurance Reserve Fund.

6-20-1512. Disposition of funds.

6-20-1513. Bond obligations.

6-20-1514. Investments.

6-20-1515. Annual reports.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 78, § 1, provided: "Purpose.

"(a) The purpose of this act is to provide for the administration and regulation of the Public Elementary and Secondary School Insurance Program and the School Motor Vehicle Insurance Program by the State Insurance Department and to amend various provisions of Arkansas Code §§ 6-20-1501 to 6-20-1515 and §§ 6-21-701 to 6-21-711. The responsibilities of the Department of Education for the regulation and administration of the Public Elementary and Secondary School Self-Insurance Program and the School Motor Vehicle Self-Insurance Program shall cease and its responsibilities shall be transferred to the State Insurance Department. The programs shall be known as the Public Elementary and Secondary School Insurance Program and the Public School Motor Vehicle Insurance Program.

"(b) The statutory authority, powers, duties, functions, including budgeting and purchasing, records, property, unexpended balances of appropriations, allocations, or other funds, and authorized positions but not the personnel of the Public Elementary and Secondary School Self-Insurance Program and the School Motor Vehicle Self-Insurance Program are transferred to the department. The transfer shall include each program's prescribed powers, duties, and functions, including but not limited to rulemaking, regulation, and licensing; and the rendering of findings, orders and adjudications.

"(c) All forms for the administration and regulation of the programs, all trust

agreements and arrangements, and all documents presently in use which have been previously approved by the Department of Education or the State Board of Education shall continue to be approved until otherwise determined by the Insurance Commissioner.

"(d) The Insurance Services Division of the Department of Education is transferred to the State Insurance Department by a type two (2) transfer under § 25-2-105. The transfer shall include the authorized positions but shall not include the personnel of the division."

Cross References. Insurance Code, § 23-60-101 et seq.

Effective Dates. Acts 1973, No. 380, § 17: approved Mar. 16, 1973. Emergency clause provided: "The General Assembly declares and finds that the establishment of a self-insurance program for losses against fire for all buildings and the contents thereof of Arkansas Public School Districts is in the best interests of the State. An emergency is therefore declared to exist and this Act shall take effect immediately upon passage."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist.

Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 78, § 26; Feb. 6, 2004. Emergency clause provided: "It is hereby found and determined by the General Assembly that assistance is necessary to minimize public school insurance costs; that the administration of public school insurance programs by the State Insurance Department will permit the Department of Education to concentrate its

efforts and resources on improving public education; that this subchapter is designed to provide property and automobile liability and physical damage coverage for state public schools, educational cooperatives, and open-enrollment charter schools participating in the programs as economically as possible; and that this act should be effective immediately. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-1501. Title.

This subchapter shall be known as the "Public Elementary and Secondary School Insurance Act".

History. Acts 1973, No. 380, § 1; A.S.A. 1947, § 80-3509; Acts 2003 (2nd Ex. Sess.), No. 78, § 2.

6-20-1502. Establishment of insurance system.

The purpose of this subchapter is to establish and maintain a system of insurance for the public elementary and secondary schools, education cooperatives, and open-enrollment public charter schools of Arkansas.

History. Acts 1973, No. 380, § 5; A.S.A. 1947, § 80-3513; Acts 2003 (2nd Ex. Sess.), No. 78, § 3.

6-20-1503. State Insurance Department — Powers and duties regarding insurance for public elementary and secondary schools.

It shall be the power and duty of the State Insurance Department to:

(1) Adopt such rules and regulations as may be necessary to provide for the insuring of public elementary and secondary school, education service cooperative, and open-enrollment public charter school property within the State of Arkansas;

(2) Administer the Public School Insurance Trust Fund;

(3) Delegate responsibilities in connection with the administration of this subchapter to the Director of the Risk Management Division of the State Insurance Department and the staff of the department;

(4) Establish and administer a program of insurance to cover buildings and contents of public school districts, education service cooperatives, and open-enrollment public charter schools of this state that have elected to participate in a multischool insurance program. The programs shall be in accordance with recognized and established insurance practices;

(5) Establish, and from time to time modify, the premium rates to be charged for the various risks;

(6) Specify the form for insurance policies and other forms required for the purposes of this subchapter;

(7) Purchase insurance in compliance with all state purchasing laws from insurance companies authorized to do business in this state in keeping with recognized principles of good risk management. The director shall prescribe, from time to time, rules and regulations for placing and handling the insurance;

(8) Employ necessary adjusters, engineers, appraisers, and other personnel required in the administration of this subchapter;

(9) Engage in a program of prevention loss control to assist the various public schools in improving and minimizing potential insurance losses;

(10) Perform all additional powers and duties necessary to maintain sound insurance underwriting practices recognized by good risk management;

(11) Periodically review the status of the fund and the adequacy of insurance premium rates and compare these rates with rates for comparable risks for private insurance companies;

(12) Confer with superintendents and boards of directors of school districts, the governing boards of education service cooperatives, and open-enrollment public charter schools concerning insurance practices of the various school districts, education service cooperatives, and open-enrollment public charter schools;

(13) Promulgate rules and regulations for the administration of the state public school insurance program; and

(14) Perform other duties that will expedite the operation of the Public Elementary and Secondary School Insurance Program.

History. Acts 1973, No. 380, §§ 3, 5, 6; A.S.A. 1947, §§ 80-3511, 80-3513, 80-3514; Acts 2003 (2nd Ex. Sess.), No. 78, § 4; 2007, No. 617, § 15; 2007, No. 738, § 1.

Amendments. The 2007 amendment by No. 617 substituted “education service cooperative” for “educational cooperative”

in (1); and inserted “service” preceding “cooperatives” in (4) and twice in (12).

The 2007 amendment by No. 738 substituted “Public School Insurance Trust Fund” for “Public Elementary and Secondary School Insurance Fund” in (2).

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-20-1504. [Repealed.]

Publisher's Notes. This section, concerning the School Self-Insurance Advisory Committee, was repealed by Acts 2003 (2nd Ex. Sess.), No. 78, § 5. The section was derived from Acts 1973, No. 380, § 4; A.S.A. 1947, § 80-3512; Acts 1997, No. 250, § 17; 1999, No. 391, § 20; 2001, No. 1288, § 1.

6-20-1505. Information to be furnished.

(a) The Director of the Risk Management Division of the State Insurance Department, with the approval of the Insurance Commissioner, shall require school district superintendents, county school supervisors, clerks, or governing boards of the education service cooperatives or open-enrollment public charter schools to furnish the State Insurance Department a complete list showing the location of every school building sixty (60) days prior to entering the program and upon written request by the department.

(b) The department shall have authority to require each school district, education service cooperative, or open-enrollment public charter school to furnish a complete report of its insurance program, including the expiration dates of its contracts, a history of losses, or any additional information required by the insurer.

History. Acts 1973, No. 380, § 7; A.S.A. 1947, § 80-3515; Acts 2003 (2nd Ex. Sess.), No. 78, § 6; 2007, No. 617, § 16. inserted "service" preceding "cooperatives" in (a) and inserted "service" preceding "cooperative" in (b).

Amendments. The 2007 amendment

6-20-1506. Finding of uninsurability — Effect.

(a)(1) The State Insurance Department is authorized to maintain an inspection and engineering service and a training program designed to reduce the hazards in public school buildings insured under this program.

(2) The department shall have authority to cancel or not renew insurance on any school property if the property is deemed no longer insurable.

(3) The department may refuse to insure property when it determines that the property does not meet program guidelines.

(b) In carrying out its duties pursuant to this section, the department may request and the affected school district shall provide any information requested for a determination concerning the reasons for the denial, nonrenewal, or cancellation of insurance coverage.

History. Acts 1973, No. 380, § 8; A.S.A. 1947, § 80-3516; Acts 2003 (2nd Ex. Sess.), No. 78, § 7.

6-20-1507. Premium rate and payment.

(a) The premium rate shall be actuarially sound.

(b) School districts, education service cooperatives, or open-enrollment public charter schools shall make payment of premium when demand is made as scheduled in the contract.

(c)(1) Any school district, education service cooperative, or open-enrollment public charter school which does not pay the premium when due shall be charged a rate of interest at five percent (5%) per annum on all payments due and unpaid on the policy issued.

(2) The State Insurance Department may cancel insurance coverage for school districts, education service cooperatives, or open-enrollment public charter schools that fail to pay the premium due within thirty (30) days.

(3) The department shall give thirty (30) days' notice before any cancellation for nonpayment.

(d) Rules and regulations of the department shall include such items as payment of premiums and other pertinent items with reference to the premium rate, but the rules and regulations shall not be more stringent than practices of commercial companies writing similar insurance in Arkansas.

(e) Premiums collected by the Public Elementary and Secondary School Insurance Program shall continue to be subject to any premium tax now or hereafter levied for the support of the firemen's pension and relief fund.

History. Acts 1973, No. 380, § 9; A.S.A. 1947, § 80-3517; Acts 2003 (2nd Ex. Sess.), No. 78, § 8; 2007, No. 617, § 17.

Amendments. The 2007 amendment inserted "service" preceding "coopera-

tives" in (b); inserted "service" preceding "cooperative" in (c)(1); and substituted "education service cooperatives" for "educational cooperatives" in (c)(2).

6-20-1508. Appraisal and payment of losses.

(a) In the event of loss of school district, education service cooperative, or open-enrollment public charter school property under the Public Elementary and Secondary School Insurance Program, the Public School Insurance Trust Fund shall pay the loss as specified in the contract.

(b) When an agreement as to the extent of loss or damage cannot be reached between the State Insurance Department and officials having charge of the property, the amount of the loss or damage shall be determined by three (3) appraisers, one (1) to be named by the department, one (1) by the school district, education service cooperative, or open-enrollment public charter school governing board, and a third to be selected by the two (2) appointed appraisers, all of whom shall be disinterested persons and qualified from experience to appraise and value such property.

(c) If a third appraiser is not agreed upon within thirty (30) days, the Insurance Commissioner shall have authority to appoint a third appraiser.

(d) It shall be the duty of the department to coordinate, facilitate, and expedite details in connection with responsibilities outlined in this section.

(e) The department is granted authority to contract for services with licensed real estate brokers in order to expedite and facilitate the proper operation of the program.

History. Acts 1973, No. 380, § 10; A.S.A. 1947, § 80-3518; Acts 2003 (2nd Ex. Sess.), No. 78, § 9; 2007, No. 617, § 18; 2007, No. 738, § 2.

Amendments. The 2007 amendment by No. 617 inserted “service” preceding “cooperative” in (a) and (b).

The 2007 amendment by No. 738 substituted “Public School Insurance Trust Fund” for “Public Elementary and Secondary School Insurance Fund” in (a).

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-20-1509. Effect of federal assistance.

Any school district, education service cooperative, or open-enrollment public charter school that may receive financial assistance from the federal government as a result of federal legislation pertaining to disasters shall not be adversely affected as a result of any moneys due from the Public School Insurance Trust Fund because of coverage by the Public Elementary and Secondary School Insurance Program.

History. Acts 1973, No. 380, § 12; A.S.A. 1947, § 80-3520; Acts 2003 (2nd Ex. Sess.), No. 78, § 10; 2007, No. 617, § 19; 2007, No. 738, § 3.

Amendments. The 2007 amendment by No. 617 inserted “service” preceding “cooperative.”

The 2007 amendment by No. 738 substituted “Public School Insurance Trust Fund” for “Public Elementary and Secondary School Insurance Fund.”

6-20-1510. [Repealed.]

A.C.R.C. Notes. Acts 2007, No. 738 § 11, provided:

“(a) All unexpended balances and appropriations from the following funds shall be transferred by the Chief Fiscal Officer of the State to the Public School Insurance Trust Fund on the effective date of this act:

“(1) The former Public Elementary and Secondary School Insurance Fund established under §§ 6-20-1510 and 19-5-908; and

“(2) The former School Vehicle Insurance Reserve Trust Fund established under §§ 6-21-710 and 19-5-981.

“(b) The fund balances shall be used by the State Insurance Department for the

purposes for which the fund balances were collected.”

Acts 2007, No. 738 § 12, provided: “The Public School Insurance Trust Fund established by this act shall be the successor fund to the Public Elementary and Secondary School Insurance Fund established under §§ 6-20-1510 and 19-5-908 and the School Vehicle Insurance Reserve Trust Fund established under §§ 6-21-710 and 19-5-981. Any funds appropriated by the 86th General Assembly from the Public Elementary and Secondary School Insurance Fund or the School Vehicle Insurance Reserve Trust Fund shall be deemed payable from the Public School Insurance Trust Fund.”

Publisher's Notes. This section, concerning the Public Elementary and Secondary School Insurance Fund, was repealed by Acts 2007, No. 738, § 4. The

section was derived from Acts 1973, No. 380, § 2; A.S.A. 1947, § 80-3510.

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-20-1511. Permanent Insurance Reserve Fund.

The General Assembly shall provide a Permanent Insurance Reserve Fund of not less than two million dollars (\$2,000,000) on a loan basis for the purpose of initiating the Public Elementary and Secondary School Insurance Program.

History. Acts 1973, No. 380, § 13; A.S.A. 1947, § 80-3521.

6-20-1512. Disposition of funds.

All funds received by the State Insurance Department as premiums, adjustments, earnings, and the like, as provided in this subchapter, shall be deposited into the Public School Insurance Trust Fund and used for the following purposes, listed in a descending order of priority:

- (1) To defray administrative costs;
- (2) To pay claims; and
- (3) To maintain the Public School Insurance Trust Fund.

History. Acts 1973, No. 380, § 13; A.S.A. 1947, § 80-3521; Acts 2003 (2nd Ex. Sess.), No. 78, § 11; 2007, No. 738, § 13.

Amendments. The 2007 amendment added the (a) designation; inserted “deposited into the Public School Insurance

Trust Fund and” in the introductory language of (a); substituted “the Public School Insurance Trust Fund” for “the Permanent Insurance Reserve Fund of two million dollars (\$2,000,000)” in (a)(3); deleted former (a)(4); and made related changes.

6-20-1513. Bond obligations.

(a) The State Insurance Department is authorized and directed to meet legal requirements with reference to coverage on buildings as a result of school district, education service cooperative, or open-enrollment public charter school bond obligations.

(b) The specific intent of this section is to ensure that policies issued by the Public Elementary and Secondary School Insurance Program include provisions required by existing school district bond contracts.

History. Acts 1973, No. 380, § 14; A.S.A. 1947, § 80-3522; Acts 2003 (2nd Ex. Sess.), No. 78, § 12; 2007, No. 617, § 20.

Amendments. The 2007 amendment inserted “service” preceding “cooperative” in (a).

6-20-1514. Investments.

(a) The State Insurance Department is authorized to invest funds of the Public Elementary and Secondary School Insurance Program.

(b) Funds of the program may be invested and reinvested as the Insurance Commissioner may determine.

(c) Moneys invested and interest earned thereon shall be administered as program funds.

(d) Moneys deposited to the program shall not be subject to any deduction, tax, levy, or any other type of assessment.

History. Acts 1973, No. 380, § 15; A.S.A. 1947, § 80-3523; Acts 2003 (2nd Ex. Sess.), No. 78, § 13.

Publisher's Notes. The Arkansas In-

surance Investment Code, referred to in this section, probably refers to § 23-63-801 et seq.

6-20-1515. Annual reports.

The State Insurance Department shall report annually to the Governor and the General Assembly on the status of the Public Elementary and Secondary School Insurance Program. The report shall include a detailed statement of investments and earnings.

History. Acts 1973, No. 380, § 11; A.S.A. 1947, § 80-3519; Acts 2003 (2nd Ex. Sess.), No. 78, § 14.

SUBCHAPTER 16 — STATE ASSISTANCE TO SCHOOL DISTRICTS IN DISTRESS

SECTION.

6-20-1601 — 6-20-1610. [Repealed.]

6-20-1601 — 6-20-1610. [Repealed.]

Publisher's Notes. This subchapter, concerning state assistance to school districts in distress, was repealed by Acts 2003, No. 1467, § 22. The subchapter was derived from the following sources:

- 6-20-1601. Acts 1995, No. 915, § 1.
- 6-20-1602. Acts 1995, No. 915, § 3; 1999, No. 1549, § 23.
- 6-20-1603. Acts 1995, No. 915, § 4.
- 6-20-1604. Acts 1995, No. 915, § 2.
- 6-20-1605. Acts 1995, No. 915, § 5.
- 6-20-1606. Acts 1995, No. 915, § 5.
- 6-20-1607. Acts 1995, No. 915, § 6; 1997, No. 417, § 1.

6-20-1608. Acts 1995, No. 915, § 5.

6-20-1609. Acts 1995, No. 915, § 7; 1999, No. 1078, § 81; 1999, No. 1318, § 3.

6-20-1610. Acts 1995, No. 915, §§ 8, 9.

For present law, see § 6-20-1901 et seq.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

SUBCHAPTER 17 — HIGH COST TRANSPORTATION FUNDING FORMULA ACT

SECTION.

6-20-1701 — 6-20-1716. [Repealed.]

Effective Dates. Acts 2005, No. 2138, § 13: July 1, 2005. Emergency clause pro-

vided: "It is found and determined by the General Assembly, that the Constitution

of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1,

2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005.”

6-20-1701 — 6-20-1716. [Repealed.]

Publisher’s Notes. This subchapter was repealed by Acts 2005, No. 2138, § 8. The subchapter was derived from the following sources:

- 6-20-1701. Acts 1997, No. 1133, § 3.
- 6-20-1702. Acts 1997, No. 1133, § 3; 2001, No. 1220, § 19.
- 6-20-1703. Acts 1997, No. 1133, § 3; 1999, No. 373, § 1.
- 6-20-1704. Acts 1997, No. 1133, § 3; 1999, No. 373, § 2.
- 6-20-1705. Acts 1997, No. 1133, § 3.
- 6-20-1706. Acts 1997, No. 1133, § 3.
- 6-20-1707. Acts 1997, No. 1133, § 3; 1999, No. 373, § 3.

- 6-20-1708. Acts 1997, No. 1133, § 3.
- 6-20-1709. Acts 1997, No. 1133, § 3.
- 6-20-1710. Acts 1997, No. 1133, § 3.
- 6-20-1711. Acts 1997, No. 1133, § 3.
- 6-20-1712. Acts 1997, No. 1133, § 3.
- 6-20-1713. Acts 1997, No. 1133, § 3.
- 6-20-1714. Acts 1997, No. 1133, § 3; 1999, No. 373, § 4.
- 6-20-1715. Acts 1997, No. 1133, § 3; 1999, No. 373, § 5.
- 6-20-1716. Acts 1997, No. 1133, § 3; 1999, No. 373, § 6.

SUBCHAPTER 18 — AUDITS

SECTION.

- 6-20-1801. Filing of audit reports.
- 6-20-1802. Fiscal distress for failure to file.
- 6-20-1803. Questionable audit reports.
- 6-20-1804. List of ineligible accountants.

SECTION.

- 6-20-1805. Training requirements for bookkeepers.
- 6-20-1806. Services outside the scope of practice of auditors — Prohibited activities.

Effective Dates. Acts 1999, No. 1563, § 8: June 15, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the proper accounting and auditing of school districts is of vital importance to the citizens and tax-payers of the State of Arkansas, that timely filing of audit reports is necessary to determine

the proper accounting of school funds, and that audit reports are performed in accordance with professional standards and state laws and regulations. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on June 15, 1999.”

6-20-1801. Filing of audit reports.

(a)(1) Unless a shorter period is prescribed by law or regulation, all school districts' annual audits not conducted by the Division of Legislative Audit shall be completed and filed with the Department of Education and the division within nine (9) months following the end of each fiscal year.

(2) At the request of the school district, the department may grant an extension of up to ninety (90) days on the deadline under this subsection.

(b)(1) All school district contracts for audit services with private certified public accountants shall contain a provision requiring completion of the audit and filing of the audit reports by the auditor with the department and the division within nine (9) months following the end of each fiscal year.

(2) At the request of the school district, the department may grant an extension of up to ninety (90) days on the deadline under this subsection.

(c) The division shall annually provide the department a list of school districts audited by the division and update the department on any changes throughout the year.

(d)(1) If the department has identified a school as being in fiscal distress by June 30 of any year, the annual audit of that school district shall be completed and filed with the department and the Legislative Joint Auditing Committee within six (6) months following the end of each fiscal year.

(2) If the committee determines that circumstances warrant, the committee may extend the time to file the audit report of a fiscally distressed school district up to an additional ninety (90) days.

History. Acts 1999, No. 1563, § 1; 2003 (2nd Ex. Sess.), No. 40, § 1; Acts 2003 (2nd Ex. Sess.), No. 63, § 1.

A.C.R.C. Notes. Prior to the 2003 (2nd Ex. Sess.) amendment, the end of subdivision (b)(1) read, "following the end of each June 30 fiscal year." The words "June 30" were neither set out nor specifically de-

leted in the 2003 (2nd Ex. Sess.) amendment.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 63, § 4, provided: "The provisions of this act shall be effective beginning on June 30, 2005, for the 2005-2006 fiscal year and each fiscal year thereafter."

6-20-1802. Fiscal distress for failure to file.

(a) Any school district failing to file an audit report required by § 6-20-1801 within the nine-month time period or within the time period under any extension granted by the Department of Education shall automatically be considered by the department to be in fiscal distress.

(b) By January 31 of each year, the department, by certified mail, shall notify any school district failing to file the required audit report that the school district is considered in fiscal distress.

History. Acts 1999, No. 1563, § 2; Acts 2003 (2nd Ex. Sess.), No. 63, § 2.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 63, § 4, provided: "The provi-

sions of this act shall be effective beginning on June 30, 2005, for the 2005-2006 fiscal year and each fiscal year thereafter."

6-20-1803. Questionable audit reports.

(a) If the Department of Education or the Legislative Joint Auditing Committee is concerned that a particular audit may be substandard or seriously questionable with respect to applicable professional auditing standards, the department or the committee may file a complaint on the audit report to the Arkansas State Board of Public Accountancy.

(b) The board shall review all audit reports and working papers filed with the board under this subchapter. The board shall determine whether the report is in general conformity with applicable professional standards and state laws and regulations and shall take appropriate action.

History. Acts 1999, No. 1563, § 3.

6-20-1804. List of ineligible accountants.

(a) The Department of Education shall maintain a list of accountants or accounting firms ineligible to conduct school district audits. Accountants or accounting firms placed on the ineligibility list by the department shall be ineligible to conduct school audits for a period determined by the department but which shall not exceed a five-year period from the end of the fiscal year for which the audit report was contracted to be prepared.

(b) Before entering into contracts for audit services, school districts shall inquire with the department which accountants are ineligible to conduct public school audits.

(c) The department may place accountants or accounting firms on the ineligibility list for any of the following reasons:

(1) If, in the opinion of the department or the Legislative Joint Auditing Committee, a school district audit report is not filed within the nine-month time period or within the time period under any extension granted by the department with the department and the Division of Legislative Audit as required by § 6-20-1801 because of neglect or fault of the certified public accountant or accounting firm;

(2) If the Quality Review Committee of the Arkansas State Board of Public Accountancy reports to the department and the Legislative Joint Auditing Committee that a school district audit report shows evidence of lack of general conformity with applicable professional standards or state laws and regulations or evidence that the report is substandard or seriously questionable; or

(3) Any other compelling reason that the department believes justifies placing the accountant or accounting firm on the ineligibility list.

History. Acts 1999, No. 1563, § 4; Acts 2003 (2nd Ex. Sess.), No. 63, § 3.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 63, § 4, provided: "The provi-

sions of this act shall be effective beginning on June 30, 2005, for the 2005-2006 fiscal year and each fiscal year thereafter."

6-20-1805. Training requirements for bookkeepers.

(a) The State Board of Education shall establish by rules or regulations appropriate training and continuing education requirements for individuals whose job responsibilities include preparing a budget or classifying, recording, or reporting receipts or expenditures of a school or school district.

(b) The state board shall establish rules or regulations to assure the proficiency of school employees or other individuals to properly classify, record, and report the fiscal transactions of schools or school districts.

(c) If the state board determines that a school or school district is not properly recording or reporting the fiscal transactions or budget of the school district, the superintendent and school board of directors may be required to appear before the state board to explain why the school or school district has not complied with the fiscal recording and reporting requirements.

History. Acts 2003 (2nd Ex. Sess.), No. 40, § 2.

6-20-1806. Services outside the scope of practice of auditors — Prohibited activities.

A licensed certified public accountant or a licensed accountant in public practice shall not provide the following nonaudit services to a school district, education service cooperative, or open-enrollment public charter school if the licensed certified public accountant or the licensed accountant or his or her firm is also the auditor of the school district, education service cooperative, or open-enrollment public charter school:

- (1) Accounting and bookkeeping services;
- (2) Financial information systems design and implementation;
- (3) Appraisal, valuation, and actuarial services;
- (4) Internal audit outsourcing services;
- (5) Management or human resources functions;
- (6) Broker or dealer, investment advisor, or investment banking services; and
- (7) Legal and expert services unrelated to the audit.

History. Acts 2005, No. 1244, § 1; 2007, No. 617, § 21.

Amendments. The 2007 amendment

substituted "education service cooperative" for "educational cooperative" twice in the introductory paragraph.

SUBCHAPTER 19 — ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM

SECTION.	SECTION.
6-20-1901. Title.	6-20-1907. Debt issuance.
6-20-1902. Purpose.	6-20-1908. Fiscal distress plan.
6-20-1903. Definitions.	6-20-1909. Department fiscal distress actions.
6-20-1904. Indicators of fiscal distress.	6-20-1910. State board actions.
6-20-1905. Notification and appeal.	6-20-1911. Rules and regulations.
6-20-1906. Classification of fiscal distress status.	

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

Acts 2007, No. 741, § 3: Mar. 30, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that school districts begin their work far in advance of the academic year; that the coming academic year begins in August, 2007; that the school districts require certainty about the effect on the fiscal health of the

school district that might arise from capital outlay for academic facility; and that this act is necessary because any delay might irreparably harm a school district and its students. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-20-1901. Title.

This subchapter shall be known as and may be cited as the “Arkansas Fiscal Assessment and Accountability Program”.

History. Acts 2003, No. 1467, § 18.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

6-20-1902. Purpose.

The purpose of this subchapter shall be to establish and implement a program by which the Department of Education shall identify, assess, and address school districts in fiscal distress.

History. Acts 2003, No. 1467, § 18.

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Academic Standards, 26 U. Ark. Little Rock L. Rev. 385.

6-20-1903. Definitions.

As used in this subchapter:

(1) "Annexation" means the joining of an affected school district or part of the school district with a receiving district pursuant to § 6-13-1401;

(2) "Consolidation" means the joining of two (2) or more school districts or parts of the districts to create a new single school district pursuant to § 6-13-1401;

(3) "Department" means the Department of Education;

(4) "Fiscal distress status" means a public school district determined by the department and classified by the State Board of Education as being placed in fiscal distress status pursuant to this subchapter;

(5) "Fiscal integrity" means to comply with financial management, accounting, auditing, and reporting procedures and facilities management procedures as required by state and federal laws and regulations in a forthright and timely manner;

(6) "Reconstitution" means the reorganization of the administrative unit or the governing school board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school board of directors or both;

(7) "School district" means a public school district created or established pursuant to this title; and

(8) "State board" means the State Board of Education.

History. Acts 2003, No. 1467, § 18.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to

pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

6-20-1904. Indicators of fiscal distress.

Any school district meeting any of the following criteria may be identified by the Department of Education to be a school district in fiscal distress upon final approval by the State Board of Education:

(1)(A) A declining balance determined to jeopardize the fiscal integrity of a school district.

(B) However, capital outlay expenditures for academic facilities from a school district balance shall not be used to put the school district in fiscal distress;

(2) Any act or violation determined to jeopardize the fiscal integrity of a school district, including, but not limited to:

(A) Material failure to properly maintain school facilities;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or law;

(C) Material violation of local, state, or federal construction code provisions or law;

(D) Material state or federal audit exceptions or violations;

(E) Material failure to provide timely and accurate legally required financial reports to the department, the Division of Legislative Audit, the General Assembly, or the Internal Revenue Service;

(F) Insufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;

(G) Material failure to meet legally binding minimum teacher salary schedule obligations;

(H) Material failure to comply with state law governing purchasing or bid requirements;

(I) Material default on any school district debt obligation;

(J) Material discrepancies between budgeted and actual school district expenditures;

(K) Material failure to comply with audit requirements; or

(L) Material failure to comply with any provision of the Arkansas Code that specifically places a school district in fiscal distress based on noncompliance; or

(3) Any other fiscal condition of a school district deemed to have a detrimental negative impact on the continuation of educational services by that school district.

History. Acts 2003, No. 1467, § 18; 2007, No. 741, § 1.

Amendments. The 2007 amendment added (1)(B); and deleted “of § 6-20-301” following “requirements” in (2)(K).

Effective Dates. Acts 2003, No. 1467,

§ 23, recited an effective date of July 1, 2003, but the emergency clause failed to pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

6-20-1905. Notification and appeal.

(a)(1) The Department of Education shall provide written notice, via certified mail, return receipt requested, to the president of the school board of directors and the superintendent of each school district identified as being in fiscal distress.

(2) Beginning in 2008, the department shall provide the notice required under subdivision (a)(1) of this section on or before March 30 of each year.

(b) Any school district identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal with the office of the Commissioner of Education by certified mail, return receipt requested, within thirty (30) days of receipt of notice of identified fiscal distress status from the department.

(c) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.

(d) The written appeal shall state in clear terms the reason why the school district should not be classified as in fiscal distress.

(e) Notwithstanding any appeal rights in this subchapter, no appeal shall stay the department's authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.

(f) The decision of the state board shall be a final order, and there is no further right of appeal except that the school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003, No. 1467, § 18; 2007, No. 741, § 2.

Amendments. The 2007 amendment added (a)(2)

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1,

2003, but the emergency clause failed to pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

6-20-1906. Classification of fiscal distress status.

(a) Those school districts identified by the Department of Education as being in fiscal distress shall be classified as school districts in fiscal distress upon final determination by the State Board of Education.

(b) Any school district classified as in fiscal distress shall be required to publish at least one (1) time for two (2) consecutive weeks in a newspaper of general circulation in the school district the school district's classification as a school district in fiscal distress and the reasons why the school district was classified as being in fiscal distress.

(c) The provisions of subsections (a) and (b) of this section are effective after the school district's appeal rights have been exhausted.

History. Acts 2003, No. 1467, § 18.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to

pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

6-20-1907. Debt issuance.

No school district identified in fiscal distress may incur any debt without the prior written approval of the Department of Education.

History. Acts 2003, No. 1467, § 18.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to

pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

6-20-1908. Fiscal distress plan.

(a) Those school districts identified by the Department of Education as being in fiscal distress shall file with the department within ten (10) days after the final classification by the State Board of Education a written fiscal distress improvement plan to address any area in which the school district is experiencing fiscal distress as identified by the department.

(b) Each school district shall seek and obtain approval of its plan from the department and shall describe how the school district will remedy those areas in which the school district is experiencing fiscal distress and shall establish the time period by which the school district will remedy all criteria which placed the school district in fiscal distress status.

(c) A school district in fiscal distress may only petition the state board for removal from fiscal distress status after the department has certified in writing that the school district has corrected all criteria for being classified as in fiscal distress and has complied with all department recommendations and requirements for removal from fiscal distress.

(d) No school district shall be allowed to remain in fiscal distress status for more than two (2) consecutive school years from the date that the school district was classified as being in fiscal distress status.

(e) Any school district classified as being in fiscal distress status shall be required to receive on-site technical evaluation and assistance from the department.

(f)(1) The department shall evaluate and make recommendations to the district superintendent regarding staffing of the school district and fiscal practices of the school district.

(2) The recommendations of the department shall be binding on the school district, the superintendent, and the school board of directors.

(g) Every six (6) months, the department shall submit a written evaluation on the status of each school district in fiscal distress to the state board.

(h)(1) The department may petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in fiscal distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the school district.

(2) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(i) The state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within two (2) consecutive school years of receipt of notice of identification of fiscal distress status by the department unless the state board, at its discretion, issues a written finding supported by a majority of the state board, explaining in detail that the school district could not remove itself from fiscal distress due to impossibility caused by external forces beyond the school district's control.

History. Acts 2003, No. 1467, § 18.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to

pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

6-20-1909. Department fiscal distress actions.

(a) In addressing school districts in fiscal distress, the Department of Education may:

(1) Require the superintendent to relinquish all administrative authority with respect to the school district;

(2) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Commissioner of Education and to compensate nondepartment agents operating the school district from school district funding;

(3) Call for the temporary suspension of the local school board of directors;

(4) Require the school district to operate without a local school board of directors under the supervision of the local superintendent or an individual or panel appointed by the commissioner;

(5) Place the administration of the school district over to the former board of directors or to a newly elected school board of directors; or

(6) Take any other action allowed by law that is deemed necessary to assist a school district in removing criteria of fiscal distress.

(b) The department may impose various reporting requirements on the school district.

(c) The department shall monitor the fiscal operations and accounts of the school district.

(d) The department shall require school district staff and employees to obtain fiscal instruction or training in areas of fiscal concern for the school district.

History. Acts 2003, No. 1467, § 18.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1, 2003, but the emergency clause failed to

pass. The Arkansas Attorney General ruled that acts without a valid emergency clause or a delayed effective date became effective on July 16, 2003.

6-20-1910. State board actions.

(a) After a public hearing, the State Board of Education shall consolidate, annex, or reconstitute the school district in fiscal distress to another school district or school districts upon a majority vote of a quorum of the members of the state board as permitted or required by this subchapter.

(b) The state board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liabilities of the school district.

(c) The decision of the state board shall be final with no further right of appeal except that a school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003, No. 1467, § 18.

Effective Dates. Acts 2003, No. 1467, § 23, recited an effective date of July 1,

2003, but the emergency clause failed to pass. The Arkansas Attorney General ruled that acts without a valid emergency

clause or a delayed effective date became effective on July 16, 2003.

6-20-1911. Rules and regulations.

(a) The Department of Education shall promulgate rules and regulations as necessary to identify, evaluate, assist, and address school districts in fiscal distress.

(b) The department may promulgate rules and regulations as necessary to administer this subchapter.

History. Acts 2003, No. 1467, § 18.	pass. The Arkansas Attorney General
Effective Dates. Acts 2003, No. 1467,	ruled that acts without a valid emergency
§ 23, recited an effective date of July 1,	clause or a delayed effective date became
2003, but the emergency clause failed to	effective on July 16, 2003.

SUBCHAPTER 20 — TRACKING AND ACCOUNTING OF INTERSCHOOL ATHLETIC PROGRAM FUNDS

SECTION.
6-20-2001. Purpose.
6-20-2002. Definitions.
6-20-2003. Certification by local school district board of directors.

SECTION.
6-20-2004. Regulations.

6-20-2001. Purpose.

The purpose of this subchapter is to track and account for the amount of state funds that is used to support interschool athletic programs in public schools.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1.

6-20-2002. Definitions.

- As used in this subchapter:
- (1) “Athletic expenditures” means all direct and indirect expenses related to interschool athletic programs, prorated if necessary, including, but not limited to:
 - (A) The proportion of salaries or supplemental pay for staff for or related to interschool athletic programs or organized physical activity courses as provided under § 6-16-137, or both;
 - (B) All fringe benefits, including, but not limited to, medical and dental insurance, workers’ compensation, pension plans, and any other costs associated with employment of staff for interschool athletic programs;
 - (C) Travel, including bus-related operation and maintenance, to and from any interschool athletic program event for students, faculty, spirit groups, band, or patrons of the school district;
 - (D) Equipment;
 - (E) Meals;

- (F) Supplies;
- (G) Property and medical insurance;
- (H) Medical expenses;
- (I) Utilities; and

(J) Maintenance of facilities related to interschool athletic teams and spirit groups, excluding bands;

(2) "Classroom teacher" means an individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(3) "Interschool athletic program" means:

(A) Any athletic program that is organized primarily for the purpose of competing with other schools, public or private; or

(B) Any athletic program that is subject to regulation by the Arkansas Activities Association; and

(4) "State funds" means all money derived from state revenues, specifically including, but not limited to, distributions from the Department of Education Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2005, No. 2151, § 19; 2005, No. 2256, § 1; 2007, No. 255, § 1.

Amendments. The 2005 amendment by No. 2151 rewrote (3).

The 2005 amendment by No. 2256 inserted "organized physical activity courses as provided under § 6-16-137, or both" in (1)(A); and rewrote (3).

The 2007 amendment, in (1)(A), substituted "The proportion of salaries" for

"Salaries," inserted "or related to," and deleted "excluding salaries received for duties as a classroom teacher" at the end; added "to and from any interschool athletic program event for students, faculty, spirit groups, band, or patrons of the school district" at the end of (1)(B); inserted the (3)(A) designation, and added (3)(A)(ii); and made related and stylistic changes.

6-20-2003. Certification by local school district board of directors.

(a) Annually by September 15 of each year, the local school board of directors of each school district shall:

(1) In a written report, certify to the State Board of Education:

(A) For the previous school year, the amount of the district's total athletic expenditures for interschool athletic programs that were paid from state funds; and

(B) For the upcoming school year, the district's total athletic expenditures budgeted for interschool athletic programs that are to be paid from state funds;

(2) Provide the state board with a report of the school district's total athletic expenditures paid from state funds in a format approved by the state board or the Department of Education for the previous school year;

(3) Provide the state board with a budget for the athletic expenditures to be paid from state funds as set forth under subdivision (a)(1)(B) of this section for the upcoming year; and

(4) Provide the state board and the department with any additional information or documentation requested.

(b)(1) Any school district failing to comply with the provisions of this subchapter and the rules adopted by the state board for the implementation of this subchapter shall be identified by the department to be a school in fiscal distress in accordance with the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

(2) Any report required by this subchapter shall be subject to a yearly audit that shall be filed as set forth under § 6-20-1801 et seq.

(3)(A) The Division of Legislative Audit shall conduct a review of any report required by this subchapter to determine compliance with this subchapter and any rule established by the department in accordance with § 6-20-2004.

(B) The division shall conduct the review under this subdivision (b)(3) annually on a rotating basis so that each public school district is evaluated at least one (1) time every five (5) years.

(C) If the division determines that it has insufficient staffing to conduct the scheduled reviews under this subdivision (b)(3) in a given year, the executive committee of the Legislative Joint Auditing Committee may establish the priority and number of public school districts that can reasonably be reviewed with available staff resources for the given year.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2007, No. 255, § 2.

Amendments. The 2007 amendment inserted (b)(3).

6-20-2004. Regulations.

(a) The State Board of Education shall promulgate any rules necessary for the implementation of this subchapter.

(b) The rules shall include a procedure to be developed by the Department of Education to ensure uniform reporting of athletic expenditures.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1.

A.C.R.C. Notes. As enacted, subsection (a) began: “By May 1, 2004,”.

SUBCHAPTER 21 — TRACKING AND ACCOUNTING OF INTERSCHOOL SCHOLASTIC ACTIVITY FUNDS

SECTION.
6-20-2101. Purpose.
6-20-2102. Definitions.
6-20-2103. Certification by local district school board of directors.

SECTION.
6-20-2104. Rules.

6-20-2101. Purpose.

The purpose of this subchapter is to track and account for the amount of state funds that is used to support interschool scholastic activities in public schools.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2.

6-20-2102. Definitions.

As used in this subchapter:

(1) "Classroom teacher" means an individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(2) "Interschool scholastic activities" means:

(A) Any interschool activity program that is outside the regular curriculum, excluding interschool athletic programs as defined by § 6-20-2002, which is organized primarily for the purpose of competing with other schools, public or private; or

(B) Any program or activity, excluding interschool athletic programs as defined by § 6-20-2002, which is subject to regulation by the Arkansas Activities Association;

(3) "Interschool scholastic activity expenditures" means all direct and indirect expenses related to interschool scholastic activities, prorated if necessary, including, but not limited to:

(A) Salaries or supplemental pay for staff for interschool scholastic activities or organized physical activity courses as provided under § 6-16-137, or both, excluding salaries received for duties as a classroom teacher;

(B) All fringe benefits, including, but not limited to, medical and dental insurance, workers' compensation, pension plans, and any other costs associated with employment of staff for interschool scholastic activities;

(C) Travel, including bus-related operation and maintenance;

(D) Equipment;

(E) Meals;

(F) Supplies;

(G) Property and medical insurance;

(H) Medical expenses;

(I) Utilities; and

(J) Maintenance of facilities related to interschool scholastic activities; and

(4) "State funds" means all money derived from state revenues, specifically including, but not limited to, distributions from the Department of Education Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2005, No. 2256, § 2.

Amendments. The 2005 amendment

inserted "or organized physical activity courses as provided under § 6-16-137, or both" in (3)(A).

6-20-2103. Certification by local district school board of directors.

(a) Annually by September 15 of each year, the local school board of directors of each school district shall:

- (1) In a written report, certify to the State Board of Education:
 - (A) For the previous school year, the amount of the district’s total interschool scholastic activity expenditures that were paid from state funds; and
 - (B) For the upcoming school year, the school district’s total budgeted interschool scholastic activity expenditures to be paid from state funds;
- (2) Provide the state board with a report of the school district’s total interschool scholastic activity expenditures paid from state funds in a format approved by the state board or the Department of Education for the previous school year;
- (3) Provide the state board with a budget for the interschool scholastic activity expenditures to be paid from state funds as set forth under subdivision (a)(1)(B) of this section for the upcoming year; and
- (4) Provide the state board and the department with any additional information or documentation requested.

(b)(1) Any school district failing to comply with the provisions of this subchapter and the rules adopted by the state board for the implementation of this subchapter shall be identified by the department to be a school in fiscal distress in accordance with the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

(2) Any report required by this subchapter shall be subject to a yearly audit which shall be filed as set forth under § 6-20-1801 et seq.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2.

6-20-2104. Rules.

(a) The State Board of Education shall promulgate any rules necessary for the implementation of this subchapter.

(b) The rules shall include a procedure to be developed by the Department of Education to ensure uniform reporting of interschool scholastic activity expenditures.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2. **A.C.R.C. Notes.** As enacted, subsection (a) began: “By May 1, 2004,”.

SUBCHAPTER 22 — ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004

SECTION.	SECTION.
6-20-2201. Title.	6-20-2203. Uniform budget and accounting system required.
6-20-2202. Budget and expenditure report.	6-20-2204. Required training.

SECTION.

- 6-20-2205. Penalties.
- 6-20-2206. Miscellaneous provisions.
- 6-20-2207. Rule-making authority.

SECTION.

- 6-20-2208. Monitoring of expenditures.
- 6-20-2209. Study of improved reporting systems.

Preambles. Acts 2006 (1st Ex. Sess.), Nos. 28 and 29, contained a preamble which read: "WHEREAS, the Public School Funding Act of 2003, the Public School Academic Facilities Program of 2005, and Act 108 of the 2nd Extraordinary Session of 2003 have improved and stabilized funding for public school districts; and

"WHEREAS, the Public School Funding Act of 2003 ensures that school districts have sufficient state aid to provide every student with an equal opportunity to obtain an adequate education, eliminating the need for school districts to retain large fund balances for maintenance and operation due to uncertainty regarding future funding; and

"WHEREAS, Act 108 of the 2nd Extraordinary Session of 2003 ensures that education will be funded first and provides a 'doomsday' provision to require transfers from other state agencies if the state experiences an unexpected shortfall, again eliminating a need for school districts to carry large fund balances; and

"WHEREAS, the Public School Academic Facilities Program of 2005 provides that public school districts may apply for state aid to assist with construction of academic facilities, minimizing the need for many public school districts to carry forward large balances in their building funds; and

"WHEREAS, current financial reporting systems do not provide needed information on the fund balances maintained by public school districts, including, but not limited to, the source of the funds and the reason the public school district elected to preserve the funding in its fund balances as opposed to expending the sums on educational needs,

"NOW THEREFORE, ..."

Effective Dates. Acts 2006 (1st Ex. Sess.), Nos. 26 and 27, § 4: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school

funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must have more accurate and timely information regarding the assessment, settlement, and collection of property taxes by the counties; and that this act is necessary to allow the Assessment Coordination Department, the Department of Education, and the counties sufficient time to make all necessary rules, adjustments, calculations, and reports that will be necessary prior to the convening of the 86th General Assembly. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), Nos. 28 and 29, § 2[3]: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education the General Assembly must have more accurate and timely information regarding school district expenditures, fund balances, and interfund transfers; and that this act will result in the prompt availability of information crucial to ensuring the provision of an adequate and equitable education. Therefore, an emergency is declared to exist and this act being neces-

sary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the

expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-2201. Title.

This subchapter shall be known as the "Arkansas Educational Financial Accounting and Reporting Act of 2004".

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1. deleted "and may be cited" following "shall be known."

Amendments. The 2005 amendment

6-20-2202. Budget and expenditure report.

(a)(1) The board of directors of each school district, open-enrollment public charter school, and education service cooperative shall annually prepare a budget of expenditures and receipts that shall be filed with the Department of Education by September 15 of each year pursuant to this subchapter.

(2) Each budget shall be approved by the board of directors of each school district, open-enrollment public charter school, and education service cooperative at a legally held meeting and shall be signed by the president of the board of directors and the ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative. The budget shall contain the information and be prepared in an electronic format prescribed by the Department of Education governing financial accounting for Arkansas school districts, open-enrollment public charter schools, and education service cooperatives.

(3)(A) The electronic format required by the Department of Education shall be available for completion by school districts, open-enrollment public charter schools, and education service cooperatives not later than August 1 of each year.

(B) The Department of Education shall declare when the electronic format is accessible to school districts, open-enrollment public charter schools, and education service cooperatives via a Commissioner of Education's memo.

(b)(1)(A) Warrants or checks of a school district, open-enrollment public charter school, or education service cooperative issued after the date required by subsection (a) of this section shall be invalid unless a budget has been filed as required by this subchapter and in compliance with appropriate rules.

(B) The ex officio financial secretary of a school district, open-enrollment public charter school, or education service cooperative and his or her surety shall be liable for any warrants or checks

countersigned after the date required by subsection (a) of this section if a budget has not been filed.

(2) After the Department of Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives, distribution of all grants and aids from the state for which the school district, open-enrollment public charter school, or education service cooperative may be eligible shall be suspended until the requirements of this subchapter are met by the school districts, open-enrollment public charter schools, or education service cooperatives.

(c)(1)(A) School district, open-enrollment public charter school, and education service cooperative budgets filed pursuant to this section shall be reviewed by the auditors of the financial accountability office of the Department of Education to determine whether the requirements of state law and the rules of the State Board of Education regarding the use of school, open-enrollment public charter school, and education service cooperative funds and expenditure requirements are being met.

(B) The review and the determination shall be completed not later than February 15 of each year. If the auditors of the financial accountability office determine that the financial records are deficient, then the school district, open-enrollment public charter school, or education service cooperative shall be notified and shall have thirty (30) days to respond prior to suspension of the grants and aids.

(2) Upon approval by the auditors, copies of the approved budget shall be filed with the school district, the open-enrollment public charter school, the education service cooperative, the county treasurer if serving as school treasurer, and the Department of Education.

(d)(1)(A) The ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative shall keep a record of the following information in a format required by the Department of Education:

(i) The daily expenditures and receipts of the school district, open-enrollment public charter school, or education service cooperative; and

(ii)(a) Information on fund balances maintained by the school district, open-enrollment public charter school, or education service cooperative, including, but not limited to, the:

(1) Sources of the funds maintained as fund balances, to the extent practicable;

(2) Reasons for maintaining, instead of spending, the fund balances;

(3)(A) Amount of funds transferred between various funds during the past year.

(B) The school district, open-enrollment public charter school, and education service cooperative shall identify the funds transferred between and the amount of funds transferred; and

(4) Amount of fund balances dedicated for the construction, maintenance, or repair of academic or athletic facilities.

(b) The Department of Education shall promulgate rules that require reporting of fund balances sufficient to verify whether funds allocated for educational purposes, including, but not limited to, student academic needs and the maintenance and operation of public school district facilities, are used for their intended purposes or retained by the school district in its fund balances.

(B)(i) An annual report summarizing the information required in subdivision (d)(1)(A) of this section in a format required by the Department of Education shall be filed by September 15 of each year with the Department of Education.

(ii) A final close must be performed in each school district's open-enrollment public charter school's or education service cooperative's applicable general ledger database no later than September 30, 2007, for the 2006-2007 school year and September 15 for each school year thereafter. The Arkansas Public School Computer Network shall ensure that proper controls are in place to prohibit changes to the aforementioned data after the final close has been performed.

(2) If the auditors of the financial accountability office of the Department of Education determine that the financial records of any school district, open-enrollment public charter school, or education service cooperative are not properly maintained or that the financial affairs of the school district, open-enrollment public charter school, or education service cooperative are not administered in accordance with state law or state board rules, grants and aids from the state to which the school district, open-enrollment public charter school, or education service cooperative may be entitled shall be withheld until it is determined that the fiscal records of the school district, open-enrollment public charter school, or education service cooperative are in order or that the financial affairs are being properly administered as established by statute or by rule promulgated by the state board, provided that the Department of Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives.

(e)(1) The Department of Education may withhold state aid from any school district, open-enrollment public charter school, or education service cooperative that fails to file its budget or any other required report with the Department of Education by the deadline established by statute or by rule promulgated by the state board or by the due dates established by the Department of Education pursuant to subdivision (e)(2) of this section, provided that the Department of Education has met all deadlines for providing pertinent information to school districts, open-enrollment public charter schools, or education service cooperatives.

(2) The Department of Education shall submit a list of all required financial accountability reports along with due dates to each school district, open-enrollment public charter school, and education service cooperative by July 1 of each year.

(f) The state board shall promulgate the necessary rules to fully implement this section.

(g)(1) The Treasurer of State shall withhold the monthly distribution of county aid provided under § 19-5-602(c) from any county whose county official who is the preparer of the tax books fails to provide by March 15 of each calendar year information concerning the annual abstract of assessment that reflects the aggregate value of the real and personal property for each school district located wholly or in part in the county as follows:

(A) If the county is capable of providing the information electronically, then the information shall be provided to both the Department of Education and the Assessment Coordination Department; and

(B) If the county is not capable of providing the information electronically, then the information shall be provided only to the Assessment Coordination Department.

(2) The information transmitted to the Department of Education and the Assessment Coordination Department shall also include:

(A) The previous calendar year's property assessment that will be used for ad valorem tax collections in the current year; and

(B) The millage rates, which shall be listed by the type of millage, levied against that property assessment.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 77, §§ 1, 2; 2005, No. 730, § 1; 2006 (1st Ex. Sess.), No. 26, § 1; 2006 (1st Ex. Sess.), No. 27, § 1; 2006 (1st Ex. Sess.), No. 28, § 1; 2006 (1st Ex. Sess.), No. 29, § 1; 2007, No. 617, § 22; 2007, No. 858, § 1.

Amendments. The 2005 amendment by No. 77 substituted "September 15" for "September 1" in (a)(1) and (d)(1).

The 2005 amendment by No. 730 substituted "open-enrollment charter school" for "local education agency" throughout this section; substituted "September 15" for "September 1" in (a)(1); substituted "the department" for "rules of the State Board of Education" in (a)(2); inserted (a)(3); in (b)(2), inserted "After the department ... service cooperatives, distribution" and "by the school districts, open-enrollment charter schools, or education service cooperatives"; inserted the subdivision (A) designation in (c)(1); inserted (c)(1)(B); in (d)(1), substituted "in a format required by the department" for "in the manner and on the forms as may be specified by rules of the state board" and "September 15" for "September 1"; deleted the

former last sentence in (d)(2); inserted "or by the due dates established by the department pursuant to subdivision (e)(2) of this section" in (e)(1); inserted the subdivision (g)(1) designation; substituted "whose county clerk fails to provide by March 15 of each calendar year" for "that fails to provide in a timely manner" in present (g)(1); and added (g)(2).

The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 26 and 27, in (g)(1), substituted "county official who is the preparer of the tax books" for "county clerk," deleted "to the department" following "information," inserted "that reflects the aggregate value of the real and personal property" and added "as follows" at the end; added (g)(1)(A) and (B); and inserted "also" in the introductory language of (g)(2).

The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 28 and 29 rewrote (d)(1).

The 2007 amendment by No. 617 substituted "education service" for "educational service" in (a)(3)(A).

The 2007 amendment by No. 858 added (d)(1)(B)(ii).

6-20-2203. Uniform budget and accounting system required.

(a)(1) The State Board of Education shall adopt by rule a uniform budget and accounting system that shall be known as the “Arkansas Educational Financial Accounting and Reporting System”.

(2) This system shall establish and implement the process and procedures for financial reporting as required by this subchapter for school districts, education service cooperatives, and open-enrollment public charter schools.

(3)(A) Pursuant to § 6-20-2207, the Department of Education shall establish and implement a uniform chart of accounts known as the “Arkansas Financial Accounting Handbook” or the “Arkansas Handbook”.

(B) The Arkansas Handbook shall be incorporated by reference into the rules governing the Arkansas Educational Financial Accounting and Reporting System.

(C) However, the Arkansas Handbook shall be exempt from the rule-making process and procedures required pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4) The rules shall be developed by the state board in cooperation with the department, representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the education service cooperatives, and the Legislative Joint Auditing Committee.

(b) To the extent necessary to comply with federal law, the terms and definitions contained in the Arkansas Handbook shall initially comply with Financial Accounting for Local and State School System, 2003 Edition (NCES 2004-318), and may thereafter be revised by the department as necessary to remain consistent and shall be used for valid comparisons of expenditures of schools, school districts, open-enrollment public charter schools, and education service cooperatives.

(c) In addition, the rules or the Arkansas Handbook shall include, but not be limited to:

(1) Categories to allow for the gathering of data on separate functions and programs;

(2) Categories and descriptions of expenditures that each public school or school district shall report on its annual school performance report authorized by the School Performance Report Act, § 6-15-1401 et seq. The reported expenditures shall include, but not be limited to, the following categories:

- (A) Total expenditures;
- (B) Instructional expenditures;
- (C) Administrative expenditures;
- (D) Extracurricular expenditures;
- (E) Capital expenditures; and
- (F) Debt service expenditures;

(3)(A) Categories and descriptions of public school and school district expenditures that allow for the gathering of data on separate func-

tions and programs provided by law, including without limitation the following expenditures:

- (i) Athletic expenditures;
- (ii) Student transportation expenditures;
- (iii) School district level administrative costs;
- (iv) School level administrative costs;
- (v) Instructional facilitators;
- (vi) Supervisory aides;
- (vii) Substitutes; and
- (viii) Property insurance.

(B) The department shall implement the expenditure categories in this subdivision (c)(3) beginning with the 2007-2008 school year;

(4)(A) Categories and descriptions of public school and school district expenditures that allow for the tracking of expenditures from the following sources of revenue:

- (i) Student growth;
- (ii) Declining enrollment;
- (iii) Special education catastrophic occurrences;
- (iv) Special education services;
- (v) Technology grants;
- (vi) Debt service funding supplement;
- (vii) General facilities funding;
- (viii) Distance learning; and
- (ix) Gifted and talented.

(B) The department shall complete a trial implementation of the revenue categories in subdivisions (c)(4)(A)(i) and (ii) of this section by the end of the 2007-2008 school year and fully implement all revenue categories in this subdivision (c)(4) beginning with the 2008-2009 school year;

(5)(A) Categories and descriptions of student management coding, including without limitation:

- (i) Number of students transported; and
- (ii) Daily route mileage.

(B) The department shall implement this subdivision (c)(5) beginning with the 2007-2008 school year;

(6)(A) Categories and descriptions of restricted fund balances that provide documentation of the purpose for the restriction.

(B) The department shall implement this subdivision (c)(6) beginning with the 2007-2008 school year;

(7) Categories and descriptions of expenditures that each education service cooperative shall report on its annual report authorized by law; and

(8)(A) Rules relating to computing error rates in coding and reporting financial information under the system and penalties to focus on areas needing improvement.

(B) The department shall implement this subdivision (c)(8) beginning with the 2007-2008 school year.

(d) The Arkansas Handbook shall contain appropriate format and codes for expenditures for education service cooperatives.

(e) The department shall have the authority to analyze and inspect the financial records of any school, open-enrollment public charter school, school district, or education service cooperative in order to verify that a school, school district, or education service cooperative is correctly and accurately reporting expenditures.

(f) By February 15 of each year, the department shall submit a report to the state board, the Governor, the Senate Interim Committee on Education, and the House Interim Committee on Education concerning public school and public school district expenditures required by law.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 1006, § 1.

Amendments. The 2005 amendment rewrote (a)-(c); in (d), substituted "The handbook shall contain" for "A handbook for education service cooperatives shall be developed by the state board that con-

tains" and deleted the former last sentence; inserted "open-enrollment charter school" in (e); substituted "February 15" for "November 1" in (f); and deleted (g).

The 2007 amendment inserted "public" in (c)(2); rewrote (c)(3); added present (c)(4) through (c)(6) and (c)(8); and redesignated former (c)(4) as (c)(7).

6-20-2204. Required training.

(a)(1)(A) The Department of Education shall establish two (2) tiers of required training.

(B) Both tiers of required training shall apply to public school districts, open-enrollment public charter schools, and education service cooperatives.

(C)(i) At a minimum, two (2) persons per educational entity are required to attend an initial and annual Tier I training:

(a) The school district superintendent or the education service cooperative director or the open-enrollment public charter school director; and

(b) A person whose job responsibilities include preparing the budget or overall accounting responsibility.

(ii) The two (2) persons per educational entity required to attend the initial and annual Tier I training shall each obtain twelve (12) hours of initial training and instruction necessary to demonstrate basic proficiency as determined by the department, including, but not limited to:

(a) School laws of Arkansas;

(b) Laws and rules governing the expenditure of public education funds, fiscal accountability, and school finance;

(c) Ethics; and

(d) Financial accounting and reporting of schools, school districts, open-enrollment public charter schools, and education service cooperative expenditures.

(2) Each year thereafter, the school district superintendent, the education service cooperative executive director, or open-enrollment public charter school director and the person whose job responsibilities include preparing the budget or overall accounting responsibility who have already attended the initial and Tier I training shall obtain by

December 31 of each calendar year four (4) hours of annual training and instruction as required by the department in order to maintain basic proficiency in the topics described in subdivision (a)(1) of this section.

(3)(A) The instruction may be provided by an institution of higher education in this state, from instruction sponsored by the department, by an in-service training program conducted by the Arkansas Association of School Business Officials, or from another provider.

(B) To satisfy the training and requirements under this subsection, any provider other than the department shall apply for and receive preapproval by the department as to the form and content of the training and instruction before they are offered as training and instruction to comply with the provisions of this subsection (a).

(4)(A) If a person fails to obtain the required Tier I training by the end of the calendar year and fails to cure the deficiency by March 1 of the following calendar year without filing a request for extension of time as determined from the records of the department, the department shall immediately notify the superintendent of the employing school district, the director of the open-enrollment public charter school, or the executive director of the education service cooperative by certified mail, return receipt requested, with a copy to the board president.

(B)(i) The superintendent of the school district, the director of the open-enrollment public charter school, or the education service cooperative executive director shall notify the person by certified mail, return receipt requested, and the person shall be unable to continue in his or her position from the date of receipt of notification by the superintendent of the school district, the director of the open-enrollment public charter school, or the education service cooperative executive director.

(ii) Any person receiving notice that he or she shall be unable to continue in his or her position solely because of his or her failure to obtain the required training may request a hearing before the State Board of Education prior to his or her permanent dismissal.

(5) If the person fails to obtain all required training by December 31, this failure shall constitute one (1) citation against the school district or the open-enrollment public charter school as measured by the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the department or an admonishment to the education service cooperative by the department.

(6) If the person is unable to obtain the required training because of military service or illness as verified by a written sworn statement of the person's attending physician, the department shall grant an extension permitting the person additional time to obtain the required training. The issuance of an extension shall not constitute a citation against the school district as measured by the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the department or the education service cooperative and shall not operate to remove the person from his or her job.

(b)(1) Tier II training shall include, but not be limited to, employees who do not make decisions about selecting codes or who have a limited number of codes that they can use.

(2) Tier II training shall be developed by the department in cooperation with representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the Legislative Joint Auditing Committee, and the education service cooperatives.

(3) The training shall be annual and shall be four (4) hours.

(4) School districts shall be responsible for providing the training to these employees.

(5) School district trainers are required to attend Tier I training and annual updates as required by the department under this subsection (b) and subsection (a) of this section.

(c)(1) Each school district, open-enrollment public charter school, or education service cooperative shall maintain files and records indicating all employees who are required to obtain and who have completed Tier II training.

(2) Each school district superintendent, open-enrollment public charter school director, or education service cooperative executive director shall provide the department an assurance statement regarding the completion of Tier II training by the required individuals.

(d) The state board shall modify the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the department as may be required by this section.

(e) It is the responsibility of the department to receive and maintain records of instructional hours of Tier I training obtained under this section.

(f) The state board is authorized to promulgate rules and regulations consistent with the provisions of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 617, § 23.

Amendments. The 2005 amendment rewrote this section.

The 2007 amendment substituted “education service” for “educational service” and inserted “executive” preceding “director” throughout the section.

6-20-2205. Penalties.

(a) Any school district or open-enrollment public charter school that does not follow the provisions of this subchapter shall be placed in fiscal distress as provided by law.

(b) Any education service cooperative that does not follow the provisions of this subchapter shall be sanctioned by the State Board of Education.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1.

Amendments. The 2005 amendment

substituted “open-enrollment charter school” for “local education agency” in (a).

6-20-2206. Miscellaneous provisions.

(a) If the Department of Education determines that an overpayment has been made to a school district, open-enrollment public charter school, or education service cooperative in any funding category authorized by law, the department is authorized to withhold the overpayment from future funding of the school district, open-enrollment public charter school, or education service cooperative and is authorized to transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made.

(b) Each school district, local education agency, open-enrollment public charter school, and education service cooperative shall prepare an annual statement of the financial conditions and transactions of the school district, open-enrollment public charter school, or education service cooperative as of June 30 of each year.

(c) In order for a school district, open-enrollment public charter school, or education service cooperative to be entitled to state aid as provided by law, each school district, open-enrollment public charter school, and education service cooperative shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that year;

(2) The school district, open-enrollment public charter school, and education service cooperative shall maintain such records and make such reports relative to attendance, receipts, and disbursements and other reports as required by the rules of the State Board of Education;

(3) The school, school district, open-enrollment public charter school, and education service cooperative shall maintain proper financial records in accordance with the Arkansas Educational Accounting and Reporting System, which includes the Arkansas Financial Accounting Handbook, and any reports required pursuant to § 6-20-2202(e)(2);

(4) The school district, open-enrollment public charter school, and education service cooperative shall file annually with the state board a salary schedule for its certified employees which recognizes a minimum level of training and experience. This schedule shall reflect the actual pay practices of the school district, open-enrollment public charter school, or education service cooperative, including all fringe benefits and supplemental salary schedules. Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form and shall be public records.

(B) Pupil attendance records shall be kept according to law and regulations on paper or electronic forms either furnished or approved by the department.

(C) Original pupil attendance records shall be kept on file in the office of the superintendent of schools after the school term is ended for a period of three (3) years, and these records shall be available for monitoring purposes during any day of the school term by the teachers or other persons designated to keep attendance.

(d) School districts may not include the cost of substitute teachers, extended contracts for extracurricular activities, or supplementary pay for extracurricular activities in meeting the expenditures requirement for student classroom teacher salaries.

(e) Any licensed classroom teacher or administrator of a school, school district, open-enrollment public charter school, or education service cooperative that provides false expenditure information may have his or her license placed on probation, suspended, or revoked pursuant to rules promulgated by the state board.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1.

Amendments. The 2005 amendment substituted “open-enrollment charter school” for “local education agency” throughout this section; deleted “in accordance with generally accepted accounting principles” at the end of (b); deleted “and

regulations” following “rules” in (c)(2); and, in (c)(3), substituted “The school, school district” for “The school district” and “Arkansas Educational ... § 6-20-2202(e)(2)” for “state’s school accounting manual and regulations promulgated by the state board.”

6-20-2207. Rule-making authority.

(a)(1) The State Board of Education shall promulgate rules governing a uniform budget and accounting system that shall be known as the “Arkansas Educational Financial Accounting and Reporting System”. This system shall include a uniform chart of accounts known as the “Arkansas Financial Accounting Handbook” that shall be exempt from the rule-making process pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) These rules shall be applied to all school districts, open-enrollment public charter schools, and education service cooperatives for purposes of reporting and accounting for revenues and expenditures.

(3) As necessary to comply with federal law, the Arkansas Handbook shall comply with the Financial Accounting for Local and State School System, 2003 Edition (NCES 2004-318). The Arkansas Handbook shall be exempt from the rule-making process and procedures required pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b)(1)(A) The state board shall amend the rules, and the Department of Education shall amend the Arkansas Handbook provided in subsection (a) of this section as necessary.

(B) The amendments, annual revisions, and financial accounting updates to the Arkansas Handbook shall be developed with representatives from the Arkansas Association of School Business Officials, the education service cooperatives, and other school district officials as designated by the department.

(2) Prior to making an amendment to the Arkansas Handbook, the department shall provide written notice via a Commissioner of Education memo to the school districts, open-enrollment public charter schools, and education service cooperatives. Amendments, annual revisions, and financial accounting updates shall be effective on July 1 of

the next fiscal year or ninety (90) days from the date of the commissioner's memo, whichever is later, unless:

(A) The commissioner declares that there is an emergency, at which time the change shall be effective immediately upon the date specified in the commissioner's memo;

(B) A new program or revenue source requires new accounting codes, at which time the change shall be effective immediately upon the date specified in the commissioner's memo; or

(C) The change affects only a few school districts and the school districts have mutually agreed to make the change. The changes shall be effective immediately upon the date specified in the commissioner's memo.

(c) Any school district, open-enrollment public charter school, or education service cooperative that fails to comply with state law or rules governing and providing a uniform chart of accounts for budgeting of revenues, expenditures, and financial reporting shall be deemed to be in fiscal distress and subject to the applicable enforcement provisions as provided by law.

(d) Any school district, open-enrollment public charter school, or education service cooperative that fails to comply with the expenditure requirements of any public school, public school district, or education service cooperative funding law shall be deemed to be in fiscal distress and subject to the applicable enforcement provisions as provided by law.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 617, § 24.

Amendments. The 2005 amendment rewrote (a) and (b); and substituted "open-

enrollment charter school" for "local education agency" in (c) and (d).

The 2007 amendment substituted "education service cooperatives" for "educational cooperatives" in (b)(2).

6-20-2208. Monitoring of expenditures.

(a)(1) The General Assembly determines that, although funds may be distributed to school districts under this subchapter, it is the duty and responsibility of the State of Arkansas to monitor such expenditures to ensure that each public school child in Arkansas is provided with an adequate education.

(2) The General Assembly further finds that a uniform system of accounting for and reporting expenditures is necessary to allow the state to monitor expenditures.

(b) Each school district shall ensure that funds distributed by the State of Arkansas to the district are utilized in an efficient manner in order to provide an adequate education.

(c) Each school district shall:

(1) Expend sums for teacher salaries in order to meet the requirements of Arkansas law;

(2)(A) Expend the sums allocated to the school district under § 6-20-2005(b) for salaries and other instructional aid components to benefit students in the special needs categories within the school district

unless other expenditures are allowed by law or rule of the State Board of Education or Department of Education.

(B) Further ensure that those sums are used to improve the educational opportunity of those children with a primary emphasis on improving each student's proficiency;

(3) Expend other sums as may be allocated under this subchapter and as may be required by law in order to provide an equal opportunity for an adequate education;

(4) Ensure that sums appropriated by law and allocated to the school district are used to meet standards for accreditation and to provide the required curriculum for all students in the school district;

(5) Ensure that sums allocated for facilities or other capital needs are spent in accordance with law; and

(6) Expend state and local revenues on gifted and talented programs:

(A) In an amount equal to fifteen hundredths (0.15) of the foundation funding amount multiplied by five percent (5%) of the school district's average daily membership for the previous year; and

(B) Only upon gifted and talented programs in accordance with rules promulgated by the state board.

(d)(1) During the appropriate Arkansas public school computer network reporting cycle each year, each school district shall submit appropriate data to the department establishing the school district's compliance with this section.

(2) The data shall be timely, accurate, and in the format required by rules promulgated by the state board.

(3) The data reported shall reflect the expenditure of each category of additional education categories.

(4) Reports for each school district shall be developed by the department and transmitted to the Governor, the Senate Interim Committee on Education, and the House Interim Committee on Education.

History. Acts 2003 (2nd Ex. Sess.), No. § 6-20-2305(b).
61, § 1; 2005, No. 730, § 1.

A.C.R.C. Notes. The reference to § 6-20-2005(b) in subdivision (c)(2)(A) of this section may be a reference to present

Amendments. The 2005 amendment redesignated former (a) as present (a)(1); and added (a)(2).

6-20-2209. Study of improved reporting systems.

(a)(1) The General Assembly finds that ensuring the provision of an adequate and equitable education to the children of the State of Arkansas requires prompt and reliable information on school finances, including, but not limited to, reports on school district expenditures and school district fund balances and interfund transfers.

(2) The General Assembly further finds that current financial accounting and reporting systems do not promptly provide the crucial information necessary to make informed decisions on matters pertaining to public education in this state.

(b) On or before November 1, 2006, the House Interim Committee on Education, the Senate Interim Committee on Education, and the

Department of Education shall jointly study potential upgrades in public school district financial accounting and reporting systems that would result in the prompt availability of crucial information, including, but not limited to:

- (1) The cost to the state of any potential upgrades;
- (2) The time necessary to implement any upgrades; and
- (3)(A) A definition of the term “unallocated balances” that will ensure uniform treatment of fund balances throughout public school districts.

(B) In studying possible definitions of the term “unallocated balances”, the House Interim Committee on Education and the Senate Interim Committee on Education shall consider the amount, if any, appropriate for a public school district to maintain as a fund balance for future contingencies.

(c) In conducting the study, the House Interim Committee on Education and the Senate Interim Committee on Education shall seek the cooperation of representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the education service cooperatives, and the Legislative Joint Auditing Committee.

(d) On or before December 1, 2006, the House Interim Committee on Education and the Senate Interim Committee on Education shall issue a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate regarding the results of the study and the recommendations of the committees.

History. Acts 2006 (1st Ex. Sess.), No. 28, § 2; 2006 (1st Ex. Sess.), No. 29, § 2.

SUBCHAPTER 23 — PUBLIC SCHOOL FUNDING ACT OF 2003

SECTION.

- 6-20-2301. Title.
 6-20-2302. Legislative findings.
 6-20-2303. Definitions.
 6-20-2304. Regulations — Access to information on legislation.

SECTION.

- 6-20-2305. School funding.
 6-20-2306. Department of Education to provide funding — Adjustments for overpayments.
 6-20-2307. Property tax report.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 59, § 6, provided: “This act shall become effective on July 1, 2004.”

Acts 2005, No. 2283, § 3: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the current funding provided for public schools is for the 2004-2005 school year; that it is necessary to fund school districts for the remainder of the biennium; and that this act is immediately necessary because

changes in funding for school districts must be available for the 2005-2006 school year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005.”

Acts 2006 (1st Ex. Sess.), No. 19, § 10: Apr. 11, 2006. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court de-

clared the public school funding system to be inadequate and that public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must revise the public school funding formula, revise laws regarding public school facilities, provide funding for retirement increases and limit additional increases; and enact other necessary reform measures; and that this act is immediately necessary to ensure that reform measures are available to public schools for the 2005-2006 and 2006-2007 school years. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 21, § 3: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to provide adequate funding for public education, the amount of funding provided to school districts with declining enrollment and the amount of special needs isolated funding provided to school districts with isolated schools should be increased; and that this act is necessary to allow the Department of Education and the Chief Fiscal Officer of the State sufficient time to make all necessary adjustments, calculations, and distributions to provide adequate funding for school districts with declining enrollments and isolated schools that receive special needs isolated funding. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is

neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), Nos. 30 and 31, § 2: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to provide adequate funding for public education, the amount and use of funding provided to school districts shall be revised; and that this act is necessary to allow the Department of Education and the Chief Fiscal Officer of the State sufficient time to make all necessary adjustments, calculations, and distributions. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 272, § 10: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the 2006 Act 57 study recommended that foundation funding and categorical funding be increased for the 2007-2008 and 2008-2009 school years; that the method of calculating the state foundation funding aid should be changed to ensure that all public school districts receive the full amount of foundation funding; and that this act is immediately necessary to ensure that public school districts receive adequate foundation funding for the 2007-2008 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 273, § 2: July 1, 2007. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that the 2006 Act 57 adequacy study recommended that foundation funding be increased for the 2007-2008 and 2008-2009 school years; that the method of calculating the state foundation funding aid should be changed to ensure that all public school districts receive the full amount of foundation funding plus an enhanced educational component of additional funding above and beyond adequate foundation funding; and that this act is immediately necessary to ensure that public school districts receive said funding for the 2007-2009 biennium. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 825, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the 2006 Act 57 study recommended that foundation funding and categorical funding be increased for the 2007-2008 and 2008-2009 school years; that the method of calculating the state foundation funding aid should be changed to ensure that all public school districts receive the full amount of foundation funding; and that this act is necessary to ensure that public school districts receive adequate foundation funding for the 2007-2008 school year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

6-20-2301. Title.

This subchapter shall be known and may be cited as the "Public School Funding Act of 2003".

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1.

6-20-2302. Legislative findings.

(a) The General Assembly recognizes that:

(1) Intelligence and virtue are the safeguards of liberty and the bulwark of a free and good government; and

(2) The Arkansas Constitution, Article 14, § 1, requires the State of Arkansas to ever maintain a general, suitable, and efficient system of free public schools and to adopt all suitable means to secure to the people the advantages and opportunities of education.

(b) The General Assembly finds that because of the decision of the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), it is the absolute duty of the State of Arkansas to provide all public school children with an opportunity for an adequate education.

(c) The General Assembly finds that a suitable and efficient system of public education should:

(1) Assure the availability of substantially equal and constitutionally appropriate expenditures by the state for the education of each similarly situated child in the public schools, regardless of where that child resides within the state;

(2) Assure that each school-age child resides in a school district that offers a competitive minimum salary for classroom teachers;

(3) Assure that:

(A) All students graduating from high school are able to demonstrate a defined adequate level of competence in:

- (i) English, oral communications, reading, and writing;
- (ii) Mathematics skills; and
- (iii) Science and social studies disciplines; and

(B) An adequate level of competence evolves over time to higher levels;

(4) Assure that students with disabilities have the opportunity to graduate from high school by demonstrating alternative competencies or alternative levels of competency;

(5) Assure that students who are not on track for high school graduation are identified at a sufficiently early date so that they may be provided an opportunity at a reasonable cost to achieve the minimum levels of competence necessary to graduate from high school;

(6) Recognize that graduating from high school requires that the students, as well as the parents or guardian of the students, work hard and assume appropriate responsibility for the students' success or failure;

(7) Encourage parental involvement in the public schools and in public school activities; and

(8) Recognize that early attention to and correction of student deficiencies are substantially less expensive and more effective than remedial efforts in the later school grades.

(d) The General Assembly recognizes that the supervision of public schools and the execution of the laws regulating the schools shall be vested in such officers as the General Assembly provides.

(e) It is the intent of this subchapter to provide a system of school funding that provides to each public school child in the State of Arkansas an opportunity for an adequate education.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1.

6-20-2303. Definitions.

As used in this subchapter:

(1) "Additional education categories" means state funds distributed to school districts for alternative learning environments, English-language learners, national school lunch students, and professional development;

(2)(A) "Alternative learning environment" means a student intervention program in compliance with §§ 6-18-508 and 6-18-509 that seeks to eliminate traditional barriers to learning for students.

(B) The State Board of Education shall promulgate rules that explicate not only which alternative learning environment programs shall qualify for funding, but also the characteristics of students who qualify for funding because they have been placed in an alternative learning environment program;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) In those instances in which the average daily membership for less than three (3) quarters is specified, the number of days used in the calculation shall be the days in the specified period of time.

(C) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who reside within the boundaries of the school district and who are enrolled in a public school operated by the school district;

(ii) Legally transferred students living outside the school district but attending a public school in the school district under a provision of the Arkansas Code; and

(iii) Students who are eligible to attend and who reside within the boundaries of a school district and are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program.

(D)(i) Except for those circumstances otherwise allowed by law or rule, any student who is absent from daily attendance for more than ten (10) consecutive school days shall be dropped from the attendance records of the school, school district, or open-enrollment public charter school.

(ii) Any student who fails to attend school by the tenth regular school day of the semester shall be retroactively dropped from the first day of the school semester.

(E)(i) Except as otherwise provided by law, a public school district or open-enrollment public charter school that teaches a distance learning course to one (1) or more home school or private school students shall be eligible for an amount equal to one-sixth ($\frac{1}{6}$) of the state foundation funding amount per distance learning course for each private school student or home school student who is:

(a) Residing within the school district where the public school or open-enrollment public charter school is located; and

(b) Physically attending the distance learning course or courses on the campus of the public school district or open-enrollment public charter school.

(ii) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership regardless of the number of distance learning courses received by a particular home school or private school student;

(4) "Classroom teacher" means:

(A) An individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(B) A guidance counselor; or

(C) A librarian;

(5) “English-language learners” means students identified by the state board as not proficient in the English language based upon approved English proficiency assessment instruments administered annually in the fall of the current school year, which assessments measure oral, reading, and writing proficiency;

(6) “Foundation funding” means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student;

(7) “Gifted and talented programs” means academic curricula, courses, and options designed to improve educational opportunities for gifted and talented students pursuant to guidelines adopted by the state board in accordance with § 6-42-106;

(8) “Gifted and talented students” means those students who have been identified as meeting the criteria of the gifted program approval standards established by the state board;

(9) “Legal revenues” means those revenues received or cash balances carried forward by a school district and used to make payments from:

(A)(i) The teacher’s salary fund, which means the set of accounts used to record the receipts and expenditures for payment of salaries for certified personnel, certified substitutes, tuition, and fringe benefits as defined by § 6-17-908.

(ii) Certified personnel salaries from federal programs are excluded;

(B) The operating fund, which means the set of accounts used to record the receipts and expenditures for current operating expenses other than those that relate to the purposes set out for other funds; and

(C) The debt service fund, which means the set of accounts used to record local tax receipts and expenditures for the retirement of commercially bonded debt;

(10) “Millage rate” means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904;

(11)(A) “Miscellaneous funds” means the average of those funds collected in the previous five (5) school years and reported to the Department of Education by April 15 of each school year, consisting of:

(i) Funds received by a school district from federal forest reserves, federal grazing rights, federal mineral rights, federal impact aid, federal flood control, wildlife refuge funds, and severance taxes; and

(ii) Funds received by the school district in lieu of taxes, and local sales and use taxes dedicated to education pursuant to § 26-74-201 et seq., § 26-74-301 et seq., § 26-75-301 et seq., and the Local Government Bond Act of 1985, § 14-164-301 et seq.

(B) If the school district no longer receives funds from a source of funds listed in subdivision (11)(A) of this section, then previous

collections from that source of funds shall not be included in the five-year average;

(12)(A) "National school lunch students" means those students or the percentage of enrolled students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the National School Lunch Act as determined on October 1 of each previous school year and submitted to the Department of Education, unless the school district is identified by the Department of Education as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9.

(B) If the school district is participating under 42 U.S.C. § 1759a, then for purposes of funding under § 6-20-2305(b), such a school district's annual percentage of national school lunch students shall be equal to the percentage submitted in the base year, which means the last school year for which eligibility determinations were made and meal counts were taken by type;

(13) "Net revenues" means actual revenues received from ad valorem taxes collected on behalf of a school district multiplied by the uniform rate of tax over the total millage rate of the school district;

(14) "Previous year" or "previous school year" means the school year immediately preceding the school year or fiscal year in which funds are allocated;

(15)(A) "Professional development" means a coordinated set of planned learning activities for teachers and administrators that are standards-based.

(B) Professional development shall result in individual, school-wide, and systemwide improvement designed to ensure that all students demonstrate proficiency in the state academic standards;

(16) "Quarterly average daily membership" means the average daily membership for one (1) quarter of a school year used for calculating student growth funding and as determined by rule established by the Department of Education;

(17)(A) "Revenues" means:

(i) The following items collected or received on behalf of a school district:

(a) Current year ad valorem taxes; plus

(b) Delinquent ad valorem taxes; plus

(c) Homestead tax credit; plus

(d) Interest earned on any tax funds held in trust; less

(ii) All costs and net commissions relating to the collection of ad valorem taxes authorized by law that are collected or withheld for later distribution by the county offices.

(B) On or before March 31 of each year, the Assessment Coordination Department shall compile the revenues for each school district for the calendar year preceding the end of the school fiscal year.

(C) The calculation of revenues shall be made in accordance with rules established by the Assessment Coordination Department;

(18) "School district" means a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of ad valorem property taxes under Title 26 of the Arkansas Code, which board of directors conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and this title;

(19) "Secondary vocational area center" means a public secondary vocational institution organized for the specific purpose of educating high school students in specific occupational or vocational areas and serving students from more than one (1) participating school district;

(20) "Special education catastrophic occurrences" means individual cases in which special education and related services required by the individualized education program of a particular student with disabilities are unduly expensive, extraordinary, or beyond the routine and normal costs associated with special education and related services provided by a school district and funding is pursuant to rules promulgated by the state board;

(21) "State foundation funding aid" means the amount of state financial aid provided to each school district and computed as the difference between the foundation funding amount established by the General Assembly and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district;

(22) "Student growth funding" means the amount of state financial aid provided to each school district from funds made available for the growth in the average daily membership for the school district;

(23) "Teachers of the gifted and talented" means individuals certified by the state board to teach gifted and talented students;

(24) "Technology" means any equipment for instructional purposes that is electronic in nature, including, but not limited to, computer hardware, computer software, Internet connectivity, and distance learning; and

(25) "Uniform rate of tax" means a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, utility, and regulated carrier property in the state to be used solely for the maintenance and operation of the public schools as required by Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendments 11, 40, and 74.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 1; 2007, No. 272, § 2; 2007, No. 461, § 1; 2007, No. 825, § 1.

A.C.R.C. Notes. Acts 2007, No. 272, § 1, provided: "Act 57 Compliance. The General Assembly declares this act to be in concordance with the study of the state's system of public education conducted in 2006 by the Adequacy Study Oversight Subcommittee, the House In-

terim Committee on Education, and the Senate Interim Committee on Education in compliance with Act 57 of the Second Extraordinary Session of 2003."

Acts 2007, No. 272, § 9, provided: "The document attached hereto titled 'Education Funding Recommendations for the 2007-2009 Biennium', contains the Education Funding Recommendations of the Adequacy Study Oversight Subcommittee, the House Interim Committee on

Education, and the Senate Interim Committee on Education. Since January 22, 2007, when those recommendations were adopted by the House Education Committee and the Senate Education Committee, some calculation errors were identified and recalculations were made. The recalculations are also contained in this document in narrative form. This document and its final recommendations are specifically adopted by the House Education Committee and the Senate Education Committee and recommended to the General Assembly. The document, 'Education Funding Recommendations for the 2007-2009 Biennium', shall be filed in the journals of the House and Senate."

Amendments. The 2005 amendment rewrote this section.

The 2007 amendment by No. 272 rewrote (11); substituted "department" for "deparment" in (12)(A); deleted (12)(B)(ii) and former (19)(B); deleted "except for the 2005-2006 school year as explicated in

subdivision (12)(B)(ii) of this section" following "type" in (12)(B); inserted present (13), (16) and (17) and redesignated the remaining subdivisions accordingly; substituted "the miscellaneous" for "seventy-five percent (75%) of miscellaneous" in present (21); and substituted "the growth in the average daily membership for the school district" for "that purpose" in present (22).

The 2007 amendment by No. 461 deleted former (19)(B); and substituted "the growth in the average daily membership for the school district" for "that purpose" in present (22).

The 2007 amendment by No. 825 incorporated the amendments by Acts 2007, No. 272; added present (11)(B); and redesignated former (11)(A) and (B) as (11)(A)(i) and (ii).

U.S. Code. The National School Lunch Act, referred to in this section, is codified as 42 U.S.C. § 1751 et seq.

6-20-2304. Regulations — Access to information on legislation.

(a) The State Board of Education shall have the authority, acting pursuant to its rulemaking powers, to adopt regulations for the implementation of the provisions of this subchapter.

(b) The state board shall provide access to legislation of the General Assembly concerning public school funding by the following methods:

(1) Including a link to the information on the Department of Education website; and

(2) Requiring the superintendent of each public school district in the state to provide each member of the public school district's board of directors with:

(A) Information containing the website address where the member can access the specific legislation; or

(B) Upon request, a printed copy of the legislation.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2007, No. 1587, § 2.

Amendments. The 2007 amendment added (b).

6-20-2305. School funding.

(a)(1)(A) For each school year, each school district shall receive state foundation funding aid computed as the difference between the foundation funding amount pursuant to subdivision (a)(2) of this section and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district.

(B) The Department of Education shall distribute state foundation funding aid to each school district in eleven (11) equal monthly payments.

(2)(A) For the 2007-2008 school year, the foundation funding amount is equal to five thousand seven hundred nineteen dollars (\$5,719) multiplied by the school district's average daily membership for the previous school year.

(B) For the 2008-2009 school year, the foundation funding amount is equal to five thousand seven hundred eighty-nine dollars (\$5,789) multiplied by the school district's average daily membership for the previous school year.

(C)(i) In accordance with the state's desire to foster educational excellence, in addition to the amounts determined by the General Assembly to be constitutionally adequate pursuant to subdivisions (a)(2)(A) and (B) of this section, and in addition to the funds distributed to school districts pursuant to subdivisions (a)(2)(A) and (B) of this section:

(a) For the 2007-2008 school year, fifty-one dollars (\$51.00) multiplied by the school district's average daily membership for the previous school year; and

(b) For the 2008-2009 school year, an additional thirty-six dollars (\$36.00) multiplied by the school district's average daily membership for the previous school year, which when added to the funding under subdivision (a)(2)(C)(i)(a) of this section represents an approximate total for the 2008-2009 school year of eighty-seven dollars (\$87.00) per average daily membership.

(ii) The additional funding provided by this subdivision (a)(2)(C):

(a) Shall be distributed by the Department of Education in eleven (11) monthly payments from funds appropriated by law and available for distribution as state foundation funding aid; and

(b) Shall be known as "Enhanced Educational Funding". The General Assembly has determined that Enhanced Educational Funding provided by this subdivision (a)(2)(C) is in addition to, and in excess of, the amount of funds necessary to provide an adequate education as required by the Arkansas Constitution. The Enhanced Educational Funding is available from a combination of fortunate economic factors, conservative budgeting of all state government, and the favorable forecast of state revenues. As a result, the enhanced component of Enhanced Educational Funding cannot be ensured and may not be relied on beyond the 2007-2009 biennium.

(3)(A) A school district that has experienced a decline in average daily membership over the two (2) immediately preceding school years shall receive:

(i) Declining enrollment funding equal to the difference between the average of the two (2) immediately preceding years' average daily memberships and the average daily membership for the previous school year multiplied by the amount of foundation funding set forth in subdivision (a)(2) of this section; or

(ii) Special needs isolated funding under § 6-20-604.

(B) Any funding appropriated and available for declining enrollment funding under subdivision (a)(3)(A)(i) of this section or special needs isolated funding under § 6-20-604 that is not distributed under subdivision (a)(3)(A) of this section shall be prorated and distributed equally per average lost student to school districts that meet the qualifications for both declining enrollment funding under subsection (a)(3)(A)(i) of this section and special needs isolated funding under § 6-20-604.

(C) No school district shall receive both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and student growth funding under subsection (c) of this section.

(4)(A) By the end of each school fiscal year, for a school district whose net revenues are less than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Department of Education shall distribute to the school district the difference between:

(i) The net revenues of the school district; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(B) For a school district whose net revenues are more than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Department of Education, under the authority of § 6-20-2306, shall recoup from the school district an amount equal to the difference between:

(i) The net revenues of the school district; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(b)(1) In addition to state foundation funding aid, each school district shall receive funding for additional education categories as provided in subdivisions (b)(2)-(5) of this section.

(2)(A)(i) Beginning with the 2007-2008 school year, alternative learning environment funding shall be four thousand sixty-three dollars (\$4,063) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(ii) Funding for students in alternative learning environments shall be distributed based on rules promulgated by the State Board of Education.

(B)(i) Beginning with the 2007-2008 school year, secondary vocational area center funding shall be three thousand two hundred fifty dollars (\$3,250) multiplied by the number of students enrolled in a secondary vocational area center during the previous school year.

(ii) Funding for students in secondary vocational area centers shall be distributed based on rules promulgated by the State Board of Workforce Education and Career Opportunities.

(3)(A) Beginning with the 2007-2008 school year, funding for students who are identified as English-language learners shall be two

hundred ninety-three dollars (\$293) for each identified English-language learner.

(B) Funding for English-language learners shall be distributed to school districts for students who have been identified as not proficient in the English language based upon a state-approved English proficiency assessment instrument.

(C) Funds allocated for English-language learners to school districts under this subchapter shall be expended only for eligible activities as identified in current rules promulgated by the State Board of Education and are a supplement to funding for national school lunch students provided in subdivision (b)(4) of this section.

(4)(A) Beginning with the 2007-2008 school year, national school lunch student funding for each identified national school lunch student shall be as follows:

(i) For a school district in which ninety percent (90%) or greater of the previous school year's enrolled students are national school lunch students, funding shall be one thousand four hundred eighty-eight dollars (\$1,488);

(ii) For school districts in which at least seventy percent (70%) but less than ninety percent (90%) of the previous school year's enrolled students are national school lunch students, funding shall be nine hundred ninety-two dollars (\$992); and

(iii) For school districts in which less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, funding shall be four hundred ninety-six dollars (\$496).

(B)(i) Funding under this subdivision (b)(4) for national school lunch students shall be based on the percentage determined in § 6-20-2303(12) multiplied by the number of the previous school year's enrolled students.

(ii) Beginning with the 2007-2008 school year, for school districts that are to receive funding under this subdivision (b)(4) based on a different percentage than the preceding school year as determined in § 6-20-2303(12), the funding shall be paid or reduced in three (3) equal amounts over a three-year period following the year in which a school district's number of national school lunch students:

(a) Meets, exceeds, or falls below ninety percent (90%); or

(b) Meets, exceeds, or falls below seventy percent (70%) but is less than ninety percent (90%).

(iii)(a) The Department of Education shall establish rules to implement the transitional funding provided in subdivision (b)(4)(B)(ii) of this section.

(b) The rules shall include a method of transitional funding for a school district that both falls below and exceeds a funding level identified in subdivision (b)(4)(A) of this section within a three-year period.

(iv) Under no circumstances shall a school district be entitled to receive more or less funding as a result of the transitional process than the school district is otherwise entitled to receive under this

subdivision (b)(4) based on the school district's national school lunch student population as a percentage of the school district's entire student population.

(v)(a) A school district that has experienced a significant growth in enrolled students in the previous three (3) years shall receive funding for the expected increase in the number of national school lunch students based on the expected increase in enrolled students based on the levels of funding provided in this section for national school lunch students.

(b) The State Board of Education shall establish rules to be used by the Department of Education to determine:

(1) The amount of growth necessary to qualify as significant growth;

(2) The expected increase in the number of national school lunch students based on the expected increase in enrolled students; and

(3) Which school districts have experienced a significant growth in enrolled students as necessary to qualify for funding under this subdivision (b)(4)(B)(v).

(c) The Department of Education shall not be required to adjust or fund a school district's national school lunch students based on the current year's number of national school lunch students enrolled in the school district or the average growth of students in the school district.

(C)(i)(a) The State Board of Education shall establish by rule a list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended.

(b) School districts shall expend funds allocated under this subdivision (b)(4) only on the programs or purposes on the State Board of Education's list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended, which shall include, but are not limited to:

(1) Classroom teachers, provided that the school district meets the minimum salary schedule in § 6-17-2403 without using funds provided under this subdivision (b)(4) and that those teachers are used for the purposes delineated in this subdivision (b)(4);

(2) Before-school academic programs and after-school academic programs, including transportation to and from the programs;

(3) Prekindergarten programs coordinated by the Department of Human Services;

(4) Tutors, teachers' aides, counselors, social workers, nurses, and curriculum specialists;

(5) Parent education;

(6) Summer programs;

(7) Early intervention programs; and

(8) Materials, supplies, and equipment, including technology used in approved programs or for approved purposes.

(ii) School districts that have met the needs of students for whom the funding is provided for additional educational categories under

this subsection (b) and that have excess national school lunch student categorical funds provided under this subdivision (b)(4) may use the excess national school lunch student categorical funds to supplement all classroom teacher salaries under the following conditions:

(a) The school district shall not use any portion of the national school lunch student categorical funds that are carry forward or reserve funds to supplement classroom teacher salaries;

(b) The school district shall meet the minimum teacher salary schedule under § 6-17-2403 without using national school lunch student categorical funds;

(c) The school district shall comply with the Standards for Accreditation of Arkansas Public Schools and School Districts established under The Quality Education Act of 2003, § 6-15-201 et seq., and the Arkansas Fiscal Assessment and Accountability Program under § 6-20-1901 et seq. without using national school lunch student categorical funds; and

(d) The school district shall agree that it shall not allocate or use any excess national school lunch student categorical funds in any manner except as a bonus to the salary of classroom teachers.

(iii) The school district shall include with its comprehensive school improvement plan a written detailed statement concerning how the school district will use its excess national school lunch categorical funds each school year and explaining in detail the amount of funds and percent of total funds to be used to supplement all classroom teacher salaries as allowed in subdivision (b)(4)(C)(ii) of this section.

(iv)(a) Upon review of the school district's comprehensive school improvement plan, if the Commissioner of Education determines that the school district has met the needs of students in the school district for whom the funding for additional educational categories this subsection (b) is provided, has met the requirements of subdivisions (b)(4)(C)(ii) and (iii) of this section, and has prudently managed its resources, the commissioner shall give written approval of the detailed planned flexible use of excess national school lunch student categorical funds provided to the school district.

(b) The school district shall not use its excess national school lunch categorical funds for classroom teacher salaries as provided in subdivision (b)(4)(C)(ii) of this section unless:

(1) The commissioner provides the written approval required under subdivision (b)(4)(C)(iv)(a) of this section; and

(2) Funds allocated under this subdivision (b)(4) are available.

(v) The excess national school lunch student categorical funds used to supplement the salary of a classroom teacher shall only be used as a nonrecurring bonus to a classroom teacher's salary for any given school year and shall not be considered a permanent obligation under the school district's teacher salary schedule or as contract obligations of any classroom teacher or employee of the school district.

(vi) Notwithstanding any other provision of law, if the Department of Education determines that a school district's expenditure of funds

allocated under this subdivision (b)(4) would result in the school district's losing funding under any federal law, then the funds allocated to a school district under this subdivision (b)(4) may be expended for other academic programs or salaries.

(vii) The Department of Education may direct that a school district expend available funds on specified programs under subdivision (b)(4)(C)(i) of this section.

(viii)(a) By the end of each school year, each school district shall submit to the Department of Education a report listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education on the use of funds allocated under this subdivision (b)(4).

(b) The Department of Education shall develop appropriate reporting forms for use by school districts to comply with subdivision (b)(4)(C)(viii) of this section.

(ix) Beginning with the 2007-2008 school year and each school year thereafter, any school district that used or applied restricted national school lunch student categorical funds as a supplement for salaries of classroom teachers in a school district during the 2006-2007 school year under former § 6-20-2305 (b)(4)(C)(i)(b) [repealed] shall either:

(a) Remove the use of all national school lunch student categorical funds immediately as a supplement to classroom teacher salaries; or

(b) Begin the process of removing the use or application of national school lunch student categorical funds as part of an obligated salary schedule in the following manner:

(1) A school district shall reduce each current school year by twenty percent (20%) the amount of national school lunch student categorical funds received and used by the school district as a supplement to classroom teacher salaries and shall continue this reduction in the application of national school lunch student categorical funds as a supplement to classroom teacher salaries until the school district has no more than twenty percent (20%) of the total of any current year of all national school lunch student categorical funds received by a school district applied and used as a supplement to classroom teacher salaries for a current school year;

(2) No school district shall be allowed to use or consider reserve or carry forward national school lunch student categorical funds as a supplement to classroom teacher salaries;

(3) The school district shall meet the minimum teacher salary schedule under § 6-17-2403 without using national school lunch student categorical funds;

(4) The school district shall comply with the Standards for Accreditation of Arkansas Public Schools and School Districts established under The Quality Education Act of 2003, § 6-15-201 et seq., without using national school lunch categorical funds;

(5) The school district shall include with its comprehensive school improvement plan a written detailed narrative or plan concerning

how the school district will use its excess national school lunch categorical funds each school year and explaining in detail the amount of funds and percent of total funds to be used to supplement all classroom teacher salaries as allowed in this subdivision (b)(4)(C)(ix);

(6) Upon review of the school district's comprehensive school improvement plan, if the commissioner determines that the school district has met or is meeting the needs of students in the school district for which the funding for additional educational categories under this subdivision (b)(4)(C)(ix) and has prudently managed its resources, the commissioner shall give written approval of the detailed planned flexible use of excess national school lunch student categorical funds provided to the school district; and

(7) Upon review of the school district's comprehensive school improvement plan and other indicators, if the commissioner determines that a school district has not met the needs of students that may be served with national school lunch student categorical funds, the commissioner may require that any and all national school lunch categorical funds dedicated for use or application in the teacher salary fund shall be removed from and not used to meet the classroom teacher salary obligation and redirected and applied to meet the needs of students in a school district.

(x) Each school district shall submit to the Department of Education a report listing each program and purpose upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education concerning the receipt and use of funds allocated under this subdivision (b)(4).

(xi) No provision of subdivision (b)(4)(C)(ix) of this section shall be deemed to prohibit a school district from participating in the provisions of subdivisions (b)(4)(C)(ii)-(viii) of this section.

(xii) The Department of Education shall promulgate rules and develop appropriate reporting forms for use by school districts to comply with this subdivision (b)(4)(C).

(D)(i) By the end of each school year, each school district shall submit to the Department of Education a report listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education.

(ii) The Department of Education shall develop appropriate reporting forms for use by school districts.

(5)(A) Beginning with school year 2007-2008, professional development funding shall be equal to an amount of up to fifty dollars (\$50.00) multiplied by the school district's previous school year average daily membership.

(B) Funding for professional development for teachers in Arkansas public schools shall be used for professional development activities and materials that improve the knowledge of teachers, administra-

tors, and paraprofessionals concerning effective instructional strategies, methods, and skills for improving teaching practices and student academic achievement and training for school bus drivers as outlined in rules promulgated by the State Board of Education.

(c) Isolated funding under § 6-20-601, student growth funding, and special education-catastrophic occurrences funding shall be funded as follows:

(1) Isolated funding and special education-catastrophic occurrences funding shall be allocated and funded to school districts in a line item appropriation within the Public School Fund pursuant to law or rules promulgated by the State Board of Education; and

(2)(A) Student growth funding is calculated as the sum of the following amounts:

(i) One quarter ($1/4$) of the per student foundation funding for the school district under subdivision (a)(2) of this section multiplied by the increase, if any, of each of the following:

(a) The school district's quarterly average daily membership for the first quarter of the current school year over average daily membership of the previous school year;

(b) The school district's quarterly average daily membership for the second quarter of the current year over the average daily membership of the previous school year;

(c) The school district's quarterly average daily membership for the third quarter of the current school year over the average daily membership of the previous school year; and

(d) The school district's quarterly average daily membership for the fourth quarter of the current school year over the average daily membership of the previous school year; and

(ii) Excluding any increase resulting solely from consolidation or annexation with another school district.

(B)(i) The State Board of Education shall establish by rule the timing of distributions of student growth funding and the mechanism for determining the quarterly average daily membership to be used in calculating student growth funding under this subsection (c).

(ii)(a) As the fourth quarter average daily membership count will not be available until the following school fiscal year, the final distribution for each school year shall include one half ($1/2$) of the per student foundation funding for the school district under subdivision (a)(2) of this section multiplied by the increase, if any, of the school district's quarterly average daily membership for the third quarter of the current school year over the average daily membership of the previous school year.

(b) As a result of calculating the distribution in subdivision (c)(2)(B)(ii)(a) of this section, either an adjustment shall be made in the initial distribution of growth funding for the school district in the following school year to be based on the actual fourth quarter growth determined in subdivision (c)(2)(A)(i)(d) or the school district shall refund the overpayment in growth funding.

(d) The sum of subsections (a)-(c) of this section shall be the total state aid allocated and funded to school districts pursuant to this section.

(e) Funds distributed to school districts under subsection (b) of this section shall be expended on:

(1) The students within each category of special needs for which the funds were allocated;

(2) Any students within any category of special needs under subsection (b) of this section as permitted by rules issued by the State Board of Education; or

(3) If the Department of Education determines that a school district's expenditure of funds allocated under subsection (b) of this section would result in the school district's losing funding under any federal law, then the funds allocated to a school district under subsection (b) of this section may be expended for other academic programs or salaries as permitted by the Department of Education.

(f) In order for a school district to be entitled to state funds under the provisions of this subchapter, the school district shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that fiscal year;

(2) The school district shall maintain records and make reports relative to attendance, receipts, and disbursements and other reports as required by the Department of Education for the administration of this subchapter;

(3) The school district shall maintain proper financial records in accordance with the state's school accounting manual and regulations promulgated by the State Board of Education;

(4)(A) Each school year the school district shall file with the State Board of Education a salary schedule for its certified employees that recognizes a minimum level of training and experience.

(B) The schedule shall reflect the actual pay practices of the school district, including all fringe benefits.

(C) Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form and shall be public records.

(B) The records shall be kept according to law and regulations on paper or electronic forms either furnished or approved by the Department of Education.

(C) After the school term has ended, the superintendent of the school district shall:

(1) Keep the original attendance records on file for a period of three (3) school years; and

(2) Make the original attendance records available for monitoring purposes during any day of the school term for the teachers or other persons designated to keep attendance.

(g)(1) By the end of each school year, each school district shall submit to the Department of Education a report listing each program upon

which funds allocated under subsection (b) of this section were expended, the amount expended, and any other information required by the Department of Education.

(2) The Department of Education shall develop appropriate reporting forms for use by school districts.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 2; 2006 (1st Ex. Sess.), No. 19, § 3; 2006 (1st Ex. Sess.), No. 21, § 1; 2006 (1st Ex. Sess.), No. 30, § 1; 2006 (1st Ex. Sess.), No. 31, § 1; 2007, No. 272, §§ 3, 4, 6; 2007, No. 273, § 1; 2007, No. 461, §§ 2, 3; 2007, No. 811, § 2; 2007, No. 1590, §§ 1, 2.

A.C.R.C. Notes. As enacted, subdivision (b)(4)(C)(i) began: "By June 1, 2004,".

Acts 2007, No. 272, § 1 and No. 811, § 1, provided: "Act 57 Compliance. The General Assembly declares this act to be in concordance with the study of the state's system of public education conducted in 2006 by the Adequacy Study Oversight Subcommittee, the House Interim Committee on Education, and the Senate Interim Committee on Education in compliance with Act 57 of the Second Extraordinary Session of 2003." (b) Through June 30, 2007, the State Board of Education shall approve the use of funds by a school district to supplement salaries for classroom teachers only under the following conditions: (1) The school district meets the minimum teacher salary schedule in § 6-17-2403 without using funds provided under this subdivision (b)(4); and (2) The school district is permitted to use funds provided under this subdivision (b)(4) to supplement salaries for classroom teachers only to the extent the school district was using funds provided under this subdivision (b)(4) to supplement salaries for classroom teachers as of January 1, 2006.

Acts 2007, No. 272, § 9, provided: "The document attached hereto titled 'Education Funding Recommendations for the 2007-2009 Biennium', contains the Education Funding Recommendations of the Adequacy Study Oversight Subcommittee, the House Interim Committee on Education, and the Senate Interim Committee on Education. Since January 22, 2007, when those recommendations were

adopted by the House Education Committee and the Senate Education Committee, some calculation errors were identified and recalculations were made. The recalculations are also contained in this document in narrative form. This document and its final recommendations are specifically adopted by the House Education Committee and the Senate Education Committee and recommended to the General Assembly. The document, 'Education Funding Recommendations for the 2007-2009 Biennium', shall be filed in the journals of the House and Senate."

Pursuant to § 1-2-207, § 6-20-2305(b)(1) is set out above as amended by Acts 2007, No. 1590, § 1. Section 6-20-2305(b)(1) was also amended by Acts 2007, No. 272, § 3 to read as follows: "(b)(1) In addition to state foundation funding aid, each school district shall receive funding for additional education categories as provided in this subsection (b)."

Former § 6-20-2305(b)(4)(C)(i)(b), referred to in subdivision (b)(4)(C)(ix) of this section, was repealed by Acts 2007, No. 1590, § 2. Former § 6-20-2305(b)(4)(C)(i)(b) read as follows: "(b) Through June 30, 2007, the State Board of Education shall approve the use of funds by a school district to supplement salaries for classroom teachers only under the following conditions:

"(1) The school district meets the minimum teacher salary schedule in § 6-17-2403 without using funds provided under this subdivision (b)(4); and

"(2) The school district is permitted to use funds provided under this subdivision (b)(4) to supplement salaries for classroom teachers only to the extent the school district was using funds provided under this subdivision (b)(4) to supplement salaries for classroom teachers as of January 1, 2006."

Amendments. The 2005 amendment rewrote this section.

The 2006 (1st Ex. Sess.) amendment by

No. 19 substituted “each” for “a” before “school district shall” in (a)(1); rewrote (a)(2)(A) and (B); and added (a)(2)(C).

The 2006 (1st Ex. Sess.) amendment by No. 21 added (a)(3).

The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 30 and 31 rewrote (b)(4)(C)(i).

The 2007 amendment by No. 272 rewrote (a), (b) and (c).

The 2007 amendment by No. 273, in (a)(2)(A) and (B), substituted “2007-2008” for “2005-2006” and inserted “school”; substituted “five thousand seven hundred nineteen dollars (\$5,719)” for “five thousand four hundred eighty-six dollars (\$5,486)” in (a)(2)(A); substituted “five

thousand seven hundred eighty-nine dollars (\$5,789)” for “five thousand six hundred twenty dollars (\$5,620)” in (a)(2)(B); and rewrote (a)(2)(C).

The 2007 amendment by No. 461 rewrote (a)(3)(A), added (a)(3)(C), and rewrote (c).

The 2007 amendment by No. 811 added present (b)(4)(B)(ii) through (iv); and redesignated former (b)(4)(B)(ii) as present (b)(4)(B)(v).

The 2007 amendment by No. 1590 substituted “(b)(2)-(5)” for “(b)(2)-(6)” in (b)(1); and rewrote (b)(4)(C).

U.S. Code. The National School Lunch Act, referred to in this section, is codified as 42 U.S.C. § 1751 et seq.

6-20-2306. Department of Education to provide funding — Adjustments for overpayments.

(a) If the Department of Education determines that an overpayment has been made to a school district under any appropriation authorized by this subchapter, the department is authorized to:

- (1) Withhold the overpayment from subsequent state funding;
 - (2) Transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made; and
 - (3) Request a refund from the school district in the amount of the overpayment.
- (b) The school district shall comply as directed by the department.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1.

6-20-2307. Property tax report.

In order to provide relevant information to the General Assembly impacting the funding of public education, upon approval of the Legislative Joint Auditing Committee, the Division of Legislative Audit shall prepare a report regarding the assessment and collection of property taxes.

History. Acts 2007, No. 272, § 5.

A.C.R.C. Notes. Acts 2007, No. 272, § 1, provided:

“ACT 57 COMPLIANCE. The General Assembly declares this act to be in conformance with the study of the state’s system of public education conducted in 2006 by the Adequacy Study Oversight Subcommittee, the House Interim Committee on Education, and the Senate Interim Committee on Education in compliance with

Act 57 of the Second Extraordinary Session of 2003.”

Acts 2007, No. 272, § 9, provided: “The document attached hereto titled ‘Education Funding Recommendations for the 2007-2009 Biennium’, contains the Education Funding Recommendations of the Adequacy Study Oversight Subcommittee, the House Interim Committee on Education, and the Senate Interim Committee on Education. Since January 22,

2007, when those recommendations were adopted by the House Education Committee and the Senate Education Committee, some calculation errors were identified and recalculations were made. The recalculations are also contained in this document in narrative form. This document and its final recommendations are specifi-

cally adopted by the House Education Committee and the Senate Education Committee and recommended to the General Assembly. The document, 'Education Funding Recommendations for the 2007-2009 Biennium', shall be filed in the journals of the House and Senate."

SUBCHAPTER 24 — SUPPLEMENTAL SCHOOL DISTRICT FUNDING ACT OF 2003

SECTION.

6-20-2401 — 6-20-2407. [Repealed.]

Effective Dates. Acts 2005, No. 2206, § 3: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing public school academic facilities into conformity with the court's constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive

program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; that this program must be implemented immediately for the good of public school students in Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-2401 — 6-20-2407. [Repealed.]

Publisher's Notes. This subchapter, concerning Supplemental School District Funding Act of 2003, was repealed by Acts 2005, No. 2206, § 2. The subchapter was derived from the following sources:

6-20-2401. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2402. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2403. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2404. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2405. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2406. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2407. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

SUBCHAPTER 25 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT

SECTION.

- 6-20-2501. Title.
- 6-20-2502. Definitions.
- 6-20-2503. Bonded debt assistance.
- 6-20-2504. Academic Facilities Immediate Repair Program.
- 6-20-2505. Academic Equipment Program.
- 6-20-2506. Transitional Academic Facilities Program.
- 6-20-2507. Academic Facilities Partnership Program.

SECTION.

- 6-20-2508. Academic Facilities Catastrophic Program.
- 6-20-2509. Project cost guidelines.
- 6-20-2510. Incentives for collaboration.
- 6-20-2511. High-growth school districts.
- 6-20-2512. Regulatory authority.
- 6-20-2513. Appeals.
- 6-20-2514. Academic Facilities Extraordinary Circumstances Program.
- 6-20-2515. Review conferences.

A.C.R.C. Notes. The references to § 6-21-2501 et seq. in the Emergency Clauses for Acts 2006 (1st Ex. Sess.), Nos. 34 and 35, § 2, should be to § 6-20-2501 et seq.

Effective Dates. Acts 2005, No. 2206, § 3: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing public school academic facilities into conformity with the court's constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; that this program must be implemented immediately for the good of public school students in Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), Nos. 34 and 35, § 2: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that some school districts may be unable to raise local resources necessary to qualify for state financial participation under the Arkansas Public School Academic Facilities Funding Act, § 6-21-2501 et seq., and may not receive any state financial assistance for academic facilities as a result; and that this act is immediately necessary to begin the development of a program to address the potential financial needs of school districts in extraordinary financial circumstances. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 625, § 4: March 28, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state's public schools in some cases may not be adequately insured to provide for

the rebuilding of classrooms and facilities and continuing the provision of a quality education; that uninsured losses harm the state's ability to establish and maintain appropriate educational facilities for its students; and that this act is necessary to ensure that the Commission for Arkansas Public School Academic Facilities and Transportation in consultation with the Insurance Commissioner examine and address the state's public facility insurance needs to immediately address any deficiencies and maximize the state's educa-

tional resources. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-2501. Title.

This subchapter is known as and may be cited as the "Arkansas Public School Academic Facilities Funding Act".

History. Acts 2005, No. 2206, § 1.

6-20-2502. Definitions.

As used in this subchapter:

(1)(A) "Academic facilities wealth index" means a percentage derived from the following computations:

(i) Determine the value of one (1) mill per student in each school district as follows:

(a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year; and

(b) Divide the product from subdivision (1)(A)(i)(a) of this section by the greater of the prior year average daily membership of the school district or the prior three-year average of the school district's average daily membership;

(ii) Determine student millage rankings by listing the computation under subdivision (1)(A)(i) of this section for each school district from students with the lowest value per mill to students with the highest value per mill;

(iii) Allocate the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill; and

(iv) Divide the value of one (1) mill per student in each school district as computed under subdivision (1)(A)(i) of this section by the amount corresponding to the ninety-fifth percentile of the student millage rankings under subdivision (1)(A)(iii) of this section.

(B) Every school district with a wealth index of one (1.00) or greater will be funded at the same level as the first school district

with a wealth index below one (1.00), except that funding under this subdivision (1)(B) will not exceed the amount of funding provided for a wealth index of nine hundred ninety-five thousandths (.995).

(C)(i) The percentage derived from the computation under subdivision (1)(A)(iv) of this section is the academic facilities wealth index for a school district, which shall be computed annually and used to determine the amount of the school district's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the Division of Public School Academic Facilities and Transportation.

(ii) The state's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the division is the percentage derived from subtracting the school district's percentage share of financial participation determined under subdivision (1)(C)(i) of this section from one hundred percent (100%);

(2)(A) "Academic facility" means a building or space, including related areas such as the physical plant and grounds, where students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B)(i) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(ii) The division shall determine the extent to which a building, space, or related area is used for extracurricular activities or organized physical activities courses based on information supplied by the school district and, if necessary, on-site inspection.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who reside within the boundaries of the school district and who are enrolled in a public school operated by the school district;

(ii) Legally transferred students living outside the school district but attending a public school in the school district; and

(iii) Students who are eligible to attend and reside within the boundaries of a school district and who are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;

(4) "Facility condition index" means a methodology established by the division for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school academic facility with a public school academic facility containing the same amount of square footage;

(5) "Immediate repair project" means a project involving a public school academic facility that is necessary to resolve a deficiency that presents an immediate hazard to:

(A) The health or safety of students, teachers, administrators, or staff;

(B) The integrity of the public school academic facility with regard to meeting minimum health and safety standards; or

(C) The extraordinary deterioration of the public school academic facility;

(6) "Local enhancements" means the portion of any maintenance, repair, or renovation project or new construction project that is designed to bring an academic facility or related areas such as the physical plant or grounds to a state of condition or efficiency that exceeds state academic facilities standards;

(7) "Local resources" means any moneys lawfully generated by a school district for the purpose of funding the school district's share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(8) "Maintenance, repair, and renovation" means any activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that:

(A) Maintains, conserves, or protects the state of condition or efficiency of the academic facility; or

(B) Brings the state of condition or efficiency of the academic facility up to the facility's original condition of completeness or efficiency;

(9) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904;

(10)(A) "New construction" means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that brings the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's original condition of completeness or efficiency.

(B) "New construction" includes additions to existing academic facilities and new academic facilities;

(11) "Project" means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation and new construction activities with regard to an academic facility; and

(12) "Space utilization" means the number of gross square feet per student in a public school academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 2005, No. 2206, § 1; inserted present (1)(B); redesignated 2007, No. 727, § 1. former (1)(B) as (1)(C); and substituted

Amendments. The 2007 amendment "(1)(C)(i)" for "(1)(B)(i)" in (1)(C)(ii).

6-20-2503. Bonded debt assistance.

(a) As used in this section:

(1) "Eligible school district" means a school district that applied for bonded debt assistance under this section before July 1, 2005;

(2) "Foundation funding" means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student as that amount is established in § 6-20-2305;

(3) "Local revenue per student" means in each school year ninety-eight percent (98%) of the amount of revenue available, whether or not collected, in a school district solely from the levy of the uniform rate of tax plus the average miscellaneous funds collected in the previous five (5) years divided by the average daily membership of the school district;

(4) "Miscellaneous funds" means those funds received by a local school district from federal forest reserves, federal grazing rights, federal mineral rights, federal impact aid, federal flood control, wildlife refuge funds, severance taxes, funds received by the district in lieu of taxes, and local sales and use taxes dedicated to education pursuant to § 26-74-201 et seq., § 26-74-301 et seq., § 26-75-301 et seq., and § 14-164-301 et seq.; and

(5) "State wealth index" means the result of one (1) minus the ratio of local revenue per student divided by the difference between foundation funding and local revenue per student.

(b)(1) In accordance with the requirements and limitations of this section, the state shall provide eligible school districts with financial assistance for the purpose of retiring outstanding bonded indebtedness in existence as of January 1, 2005.

(2) The amount of financial assistance under this section is based on:

(A) The total amount required to satisfy a school district's outstanding bonded indebtedness in existence as of January 1, 2005;

(B) The annual amount due on a fiscal year basis from the school district in accordance with the principal and interest payment

schedule in effect and on file with the Department of Education on January 1, 2005, for the outstanding bonded indebtedness identified under subdivision (b)(2)(A) of this section; and

(C) The calculation in subdivision (b)(3)(A) or subdivision (b)(3)(B) of this section.

(3)(A) The Commission for Arkansas Public School Academic Facilities and Transportation shall determine the amount of financial assistance for each eligible school district as follows:

(i)(a) For the year that financial assistance under this section will be provided, ascertain the scheduled debt payment on a fiscal year basis from the principal and interest payment schedule in effect and on file with the department on January 1, 2005, and reduce the amount of the payment by ten percent (10%) except as provided in subdivision (b)(3)(A)(i)(b) of this section.

(b)(1) If a school district can demonstrate to the satisfaction of the commission that all or a portion of the ten percent (10%) reduction in its scheduled debt payment under subdivision (b)(3)(A)(i)(a) of this section can be attributed to the support of academic facilities, the commission shall reverse all or a portion of the ten percent (10%) reduction by a percentage proportionate to the amount attributable to academic facilities.

(2) A school district that applied to the commission during the 2006-2007 school year for a reversal of the ten percent (10%) reduction but was denied the reversal by the commission due to the failure of the school district to submit timely appeals shall be entitled to receive bonded debt assistance for the relevant period of the program beginning with the 2007-2008 school year in the amount approved by the Division of Public School Academic Facilities and Transportation;

(ii) For the year that financial assistance will be provided, divide the scheduled debt payment as adjusted under subdivision (b)(3)(A)(i) by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year with the result multiplied by one thousand (1,000);

(iii)(a) Multiply the calculation under subdivision (b)(3)(A)(ii) of this section by a funding factor per average daily membership that will distribute a total amount of state financial assistance no less than the total amount of funds that would have been distributed during fiscal year 2005 if every school district in the state had received an amount of state financial assistance equal to an amount calculated by applying the debt service funding supplement formula under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during fiscal year 2005 with a funding factor of eighteen dollars and three cents (\$18.03).

(b) The funding factor for each fiscal year after Fiscal Year 2006 shall be equal to the funding factor derived for Fiscal Year 2006 under subdivision (b)(3)(A)(iii)(a) of this section; and

(iv) Multiply the calculation under subdivision (b)(3)(A)(iii) of this section by the state wealth index.

(B)(i) As used in this subdivision (b)(3)(B), “mandatory callable bonds” means a bond issue in which all net proceeds from debt service millage used to secure the issuance of that bond must be applied to payment of the issue and cannot be used for any other purposes.

(ii) School districts having mandatory callable bonds shall receive an amount of state financial assistance with regard to the mandatory callable bonds proportionate to the amount of state financial assistance provided under subdivision (b)(3)(A) of this section to school districts that do not have mandatory callable bonds.

(C) As the amount of state financial assistance under this section decreases to correlate with reductions in principal and interest payments and increases in property assessments, the commission shall distribute any savings through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(4)(A) The commission shall determine the amount of state financial assistance for each eligible school district no later than July 15 of each year.

(B)(i) State financial assistance under this subsection (b) is payable to each eligible school district in two (2) equal installments.

(ii) The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(5) For tracking purposes, the school district shall account for the funds received as state financial assistance under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the commission.

(c)(1)(A)(i) Nothing in this section shall prohibit a school district from refunding bonds that were issued and outstanding as of January 1, 2005.

(ii) If a school district qualifies for state financial assistance under this section, the amount of state financial assistance under this section shall not be altered or reduced as a result of refunding the bonds that were issued and outstanding as of January 1, 2005, and the financial assistance shall continue after the refunding based on the principal and interest payment schedule in effect and on file with the department on January 1, 2005.

(B) The school district shall use the debt service savings, if any, produced by refunding the outstanding bonds as follows:

(i) The annual savings produced by the refunding shall be deposited into a bond refunding savings fund, to be used by the school district solely for the new construction of academic facilities or the purchase of academic equipment; and

(ii) Before the date on which the refunding bonds are sold at public sale, the school district shall certify to the commission that the yearly

debt service savings will be used solely for the purposes described in subdivision (c)(1)(B)(i) of this section.

(2)(A) Nothing in this section shall prohibit a school district from issuing second lien bonds.

(B) If a school district qualifies for state financial assistance under this section, the amount of state financial assistance under this section shall not be increased or reduced as a result of the issuance of second lien bonds.

(3) Nothing in this subsection shall prevent the annual adjustment of state financial assistance under this section in accordance with annual variations in the state wealth index and the school district's principal and interest payment schedule in effect and on file with the department on January 1, 2005.

(d)(1) The state shall not assume any debt of a school district or incur any obligation with regard to a school district's bonded indebtedness by providing the financial assistance described in this section.

(2) The school district receiving financial assistance under this section is and will remain independently liable for all outstanding indebtedness.

(e)(1) The commission shall compute the amount of general facilities funding that each school district received or would have received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005.

(2)(A) In addition to the financial assistance provided under subsection (b) of this section, a school district shall receive in accordance with subdivision (e)(2)(B) of this section state financial assistance equal to all or a portion of the general facilities funding that the school district received or would have received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005.

(B) The commission shall phase out state financial assistance under this subsection over a ten-year period by reducing the amount received by a school district under this subsection after Fiscal Year 2006 by one-tenth (1/10) in each year of the ten-year period with the savings distributed through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(3) State financial assistance under this subsection (e) is payable to each eligible school district in two (2) equal installments. The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(f)(1) If a school district elected to receive supplemental millage incentive funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005, the commission shall compute the difference between the amount of supplemental millage incentive funding that a school district received in Fiscal Year 2005 and the amount of debt service funding supplement and general facilities funding that the school district would have

received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], in Fiscal Year 2005.

(2)(A) In addition to the financial assistance provided under subsection (b) of this section, a school district that elected to receive supplemental millage incentive funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], shall receive in accordance with subdivision (f)(2)(B) of this section state financial assistance equal to all or a portion of the amount of supplemental millage incentive funding that exceeded the amount that the school district would have received under debt service funding supplement and general facilities funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], in Fiscal Year 2005.

(B) The commission shall phase out the state financial assistance under this subsection over a ten-year period by reducing the amount received by a school district under this subsection after Fiscal Year 2006 by one-tenth (1/10) in each year of the ten-year period with the savings distributed through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(3) State financial assistance under this subsection (f) is payable to each eligible school district in two (2) equal installments. The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(g)(1)(A) Within thirty (30) days after the satisfaction of a school district's outstanding bonded indebtedness in existence as of January 1, 2005, the school district shall notify the department that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied, which shall include defeasance.

(B) If a school district has issued refunding bonds to refund bonds in existence as of January 1, 2005, the school district shall notify the department of the date that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, would have been satisfied had the bonds not been refunded.

(2)(A) Within thirty (30) days after receiving notification under subdivision (g)(1)(A) of this section, the department shall certify to the commission that all the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied.

(B) Upon acceptance by the commission of the department's certification, state financial participation under this section shall expire.

(h)(1) A school district shall qualify to receive any appropriate supplemental millage incentive funds otherwise available in the public school fund if:

(A) The school district voluntarily raised its maintenance and operation mills only during the 2004-2005 school year in order to have a total millage beyond the twenty-five (25) mills required by the Arkansas Constitution, Amendment 74; and

(B) The school district's property assessment per student is below the state average per student.

(2) The supplemental millage incentive funds shall be available without regard to any other qualifications in law, including without limitation any requirement that a school district must have previously received a debt service funding supplement.

History. Acts 2005, No. 2206, § 1; 2007, No. 989, §§ 3-5; 2007, No. 1573, § 33.

A.C.R.C. Notes. The Supplemental School District Funding Act of 2003, § 6-20-2401 et seq., was repealed by Acts 2005, No. 2206, § 2.

Amendments. The 2007 amendment

by No. 989 added (a)(1) and redesignated the remaining subdivisions in (a) accordingly; deleted "seventy-five percent (75%) of" following "plus" in present (a)(3); added (b)(2); and added (g).

The 2007 amendment by No. 1573 added the subsection designated herein as (h).

6-20-2504. Academic Facilities Immediate Repair Program.

(a) There is established the Academic Facilities Immediate Repair Program under which the Division of Public School Academic Facilities and Transportation shall provide school districts with state financial participation for eligible repair projects based on the school district's academic facilities wealth index.

(b) A school district may apply for state financial participation in an immediate repair project if:

(1) The school district's application is received by the division no later than July 1, 2005;

(2) The condition for which the repair is needed was in existence on January 1, 2005;

(3) The facility condition index of the academic facility involved in the proposed repair project is less than a threshold amount determined by the division; and

(4) The repair project involves one (1) or more of the following:

(A) Heating, ventilation, and air conditioning systems;

(B) Floors;

(C) Roofs;

(D) Sewage systems;

(E) Water supplies;

(F) Asbestos abatement;

(G) Fire alarm systems;

(H) Exterior doors;

(I) Emergency exit or egress passageway lighting;

(J) Academic program or facility accessibility for individuals with disabilities; and

(K) Any other repair to a building system necessary to satisfy life safety code requirements as determined by the division.

(c) As part of its application for state financial participation in an immediate repair project, a school district shall provide the division with evidence of:

(1) The deficiency in need of correction and how it presents an immediate hazard to:

(A) The health or safety of students, teachers, administrators, or staff of a school district;

(B) The integrity of the public school academic facility with regard to meeting minimum health and safety standards; or

(C) The extraordinary deterioration of the public school academic facility;

(2) The estimated cost of the immediate repair project, which shall be a minimum of one hundred dollars (\$100) per student or fifty thousand dollars (\$50,000), whichever is less;

(3) The availability of insurance and any other public or private emergency assistance to pay for the immediate repair project; and

(4) Whether or not the academic facility is reasonably expected to close or be substantially replaced within three (3) years.

(d)(1) The division shall evaluate a school district's immediate repair application and may conduct an on-site inspection prior to making a decision on the application as it deems necessary.

(2) The division shall notify the school district of the division's decision on the application and, if applicable, the amount of state financial participation. The division shall base its decision on several factors, including, without limitation:

(A) The seriousness of the deficiency that the immediate repair project is intended to correct;

(B) Compliance with current academic facility standards, including, without limitation, appropriate space utilization;

(C) The amount and availability of insurance and any other public or private emergency assistance;

(D) Whether the academic facility is reasonably expected to close or be substantially replaced within three (3) years;

(E) The academic facilities wealth index of the school district; and

(F) The prudent and resourceful expenditure of state funds with regard to public school academic facilities.

(e)(1)(A) If a school district qualifies for state financial participation under this section, the division shall certify the amount of state financial participation to the Commission for Arkansas Public School Academic Facilities and Transportation for oversight purposes.

(B) The commission shall certify the amount to the Department of Education for payment.

(2) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(f) Every effort shall be made to conform an immediate repair project to current academic facilities standards, including, without limitation, appropriate space utilization requirements, unless in the judgment of the division it is impractical to conform the immediate repair project to current standards.

(g) A school district shall use state financial participation in an immediate repair project to pay the cost of only the portion of an

immediate repair project that is not covered by insurance or other public or private emergency assistance received by or payable to the school district.

(h)(1) Within thirty (30) days after the completion of all approved immediate repair projects, the division shall certify to the commission that all approved immediate repair projects have been completed and all approved state financial participation under this section has been distributed.

(2) Upon acceptance by the commission of the division's certification, the Academic Facilities Immediate Repair Program shall expire.

(3) An approved project that is not verified as being complete by January 1, 2008, shall be declared canceled by the commission and program funds shall be reallocated as the commission directs.

History. Acts 2005, No. 2206, § 1; **Amendments.** The 2007 amendment 2007, No. 989, § 6. added (h).

6-20-2505. Academic Equipment Program.

(a) There is established the Academic Equipment Program under which the Division of Public School Academic Facilities and Transportation shall provide school districts with state financial participation to support the purchase of eligible academic equipment based on the school district's academic facilities wealth index.

(b) A school district may apply for state financial participation to support the purchase of academic equipment if:

(1) The school district's application is received by the division no later than July 1, 2005;

(2) The need for the academic equipment was in existence on January 1, 2005; and

(3) The academic equipment supports an adequate education as described in § 6-20-2302.

(c) As part of its application for state financial participation under this section, a school district shall provide the division with evidence of:

(1) The need for the academic equipment;

(2) The estimated cost of the academic equipment; and

(3) Any additional information determined by the division to be necessary to evaluate the school district's application.

(d) The division shall evaluate a school district's application and notify the school district of the division's decision on the application and, if applicable, the amount of state financial participation. The division shall base its decision on several factors, including, without limitation:

(1) The nature of and need for the academic equipment;

(2) Consistency with current academic equipment standards and sound educational practices;

(3) The academic facilities wealth index of the school district; and

(4) The prudent and resourceful expenditure of state funds with regard to public school academic facilities and equipment.

(e)(1)(A) If a school district qualifies for state financial participation under this section, the division shall certify the amount of state financial participation to the Commission for Arkansas Public School Academic Facilities and Transportation for oversight purposes.

(B) The commission shall certify the amount to the Department of Education for payment.

(2) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(f) Every effort shall be made to conform the purchase of academic equipment to current academic equipment standards and sound educational practices unless in the judgment of the division it is impractical to conform the purchase to current standards.

History. Acts 2005, No. 2206, § 1; **Amendments.** The 2007 amendment 2007, No. 989, § 7. reenacted (b) without change.

6-20-2506. Transitional Academic Facilities Program.

(a) There is established the Transitional Academic Facilities Program under which the Division of Public School Academic Facilities and Transportation shall provide state financial participation based on a school district's academic facilities wealth index in the form of reimbursement to a school district for eligible new construction projects for which debt is incurred or funds are spent after January 1, 2005, and on or before June 30, 2006.

(b) Under the program, a school district may proceed with new construction of an academic facility through the expenditure of local resources prior to the school district's eligibility for state financial participation and may apply the expenditure of local resources after January 1, 2005, and on or before June 30, 2006, toward meeting the school district's share of financial participation in the cost of the new construction project when, and if, the school district becomes eligible for state financial participation.

(c) In order to apply for state financial participation under the program, the school district shall provide the division with evidence of:

(1) A new construction project for which debt was incurred or funds were spent after January 1, 2005, and on or before June 30, 2006;

(2) The total cost of the new construction project;

(3) The new construction project's conformance with sound educational practices;

(4)(A) The new construction project's compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district as determined by the division.

(B) The academic facilities standards in effect on the date the plans are submitted to the division are the academic facilities standards that will apply to the new construction project;

(5) The allocation of project costs between new construction activities and maintenance, repair, and renovation activities if the new construction project includes improvements that could be classified as maintenance, repair, and renovation; and

(6) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district.

(d)(1) The division shall evaluate a school district's application for state financial participation under the program and shall conduct an on-site inspection prior to making a determination of the new construction project's eligibility for reimbursement from the state.

(2) During the on-site inspection, the division shall evaluate all of the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) The new construction project's compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) The new construction project's conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled maintenance, repair, and renovation.

(3)(A) The division shall notify the school district of the division's decision on the application and, if applicable, the amount of reimbursement from the state.

(B) The division shall base its decision on several factors, including, without limitation:

(i) The reasonableness and necessity of the features of the academic facility according to criteria developed by the division;

(ii) Compliance with current academic facility standards, including, without limitation, appropriate space utilization;

(iii) The academic facilities wealth index of the school district; and

(iv) The prudent and resourceful expenditure of state funds with regard to public school academic facilities.

(e)(1)(A) If a school district qualifies for state financial participation under this section, the division shall certify the amount of state financial participation to the Commission for Arkansas Public School Academic Facilities and Transportation for oversight purposes.

(B) The commission shall certify the amount to the Department of Education for payment.

(2) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(f) Every effort shall be made to conform a new construction project to current academic facilities standards, including, without limitation, appropriate space utilization requirements unless in the judgment of the division it is impractical to conform the new construction project to current standards.

(g)(1) Within thirty (30) days after the completion of all projects approved under this section, the division shall certify to the commission that all projects approved under this section have been completed and all state financial participation approved under this section has been distributed.

(2) Upon acceptance by the commission of the division's certification, the program shall expire.

(3) An approved project that is not verified as being complete by July 1, 2009, shall be declared canceled by the commission and program funds shall be reallocated as the commission directs.

History. Acts 2005, No. 2206, § 1; **Amendments.** The 2007 amendment 2007, No. 989, § 8. added (g).

6-20-2507. Academic Facilities Partnership Program.

(a) There is established the Academic Facilities Partnership Program under which the Division of Public School Academic Facilities and Transportation shall provide state financial participation based on a school district's academic facilities wealth index in the form of cash payments to a school district for eligible new construction projects.

(b)(1) In order to apply for state financial participation in a new construction project, a school district shall provide the division with a detailed narrative, description, and justification for the project and evidence of:

(A) Preparation for the new construction project as demonstrated by inclusion of the new construction project in the school district's facilities master plan;

(B)(i) The adoption of a resolution certifying to the division the school district's dedication of local resources to meet the school district's share of financial participation in the new construction project.

(ii) The resolution shall specify the approximate date that the board of directors of the school district intends to seek elector approval of any bond or tax measures or to apply other local resources

to pay the school district's share of financial participation in the new construction project;

(C)(i) The total estimated cost of the new construction project that shall be a minimum of three hundred dollars (\$300) per student or one hundred fifty thousand dollars (\$150,000), whichever is less.

(ii) The minimum requirement set forth in subdivision (b)(1)(C)(i) of this section may be waived by the division upon a recommendation being made by the Director of the Division of Public School Academic Facilities and Transportation to the Commissioners for the Division of Public School Academic Facilities and Transportation for the minimum to be waived for cause and a majority of the commission votes to support the waiver;

(D) The new construction project's conformance with sound educational practices;

(E) The new construction project's compliance with current academic facilities standards, including without limitation, appropriate space utilization of the applicable school in the district as determined by the division;

(F) The allocation of project costs between new construction activities and maintenance, repair, and renovation activities if the new construction project includes improvements that could be classified as maintenance, repair, and renovation; and

(G) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district.

(2)(A) The life-cycles requirement contained in the state facility assessment of 2004 is advisory only and shall not be sufficient to support the approval of those items in the list of approved projects or individual items within a project.

(B) The division shall require independent proof of the failure of the equipment or other item.

(c) The division shall use criteria to evaluate a school district's application for state financial participation in a new construction project, which shall include, without limitation, the following:

(1) How the school district's facilities master plan and current academic facilities do not address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled maintenance, repair, and renovation;

(2) How the school district's facilities master plan and any new construction project under the facilities master plan address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled maintenance, repair, and renovation;

(3) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the school district;

(4) How the new construction project has been prioritized by the school district; and

(5) The allocation and expenditure of funds in accordance with this subchapter and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(d)(1) State financial participation under the program is not available until July 1, 2006.

(2)(A) With regard to an academic facilities project for which a school district intends to apply for state financial participation during Fiscal Year 2006-2007, the division shall notify the school district of the division's decision on the application and, if applicable, the estimated amount of state financial participation in the new construction project no later than May 1, 2006.

(B) Beginning in 2007, the division shall notify the school district of the division's decision on the application and, if applicable, the estimated amount of state financial participation in the new construction project no later than May 1 of each odd-numbered year.

(3) The division's notice of its decision on a school district's application for state financial participation in a new construction project shall include an explanation of the evaluative factors underlying the decision of the division to provide or not provide state financial participation in support of the new construction project.

(e)(1) If the division determines that the new construction project is eligible for state financial participation, the division and the school

district shall enter into an agreement specifying the terms of the state's financial participation and the conditions that must be satisfied by the school district.

(2) At a minimum, the agreement shall:

(A) Identify the estimated amount of local financial participation and state financial participation in the new construction project;

(B) Define the method of and schedule for transferring state financial participation funds to the school district;

(C) Identify whether the new construction project includes any improvements that are classified as maintenance, repair, and renovation and how the project costs will be allocated between new construction activities and maintenance, repair, and renovation activities;

(D) Provide that changes to the plans for the new construction project shall be made in consultation with the division;

(E) Provide that the division or any person acting on behalf of the division may conduct on-site inspections of the new construction project as frequently as the division deems necessary to assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities;

(F) Determine how risk will be allocated between the school district and the state if the new construction project is not completed;

(G) Describe how changes in the school district's wealth index over the course of the new construction project will be treated; and

(H) Specify that the agreement is void and the state will have no further obligation to provide state funds to the school district for the new construction project that is the subject of the agreement if the school district does not raise local resources and apply local resources toward the new construction project as provided under the agreement.

(f)(1)(A) If a school district qualifies for state financial participation under this section, the division shall certify the amount of state financial participation to the commission.

(B) The amount of state financial participation under this section is limited to the amount resulting from the application of the academic facilities wealth index to the project cost promulgated by the commission to calculate the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual under § 6-20-2509.

(2)(A) The commission shall certify the amount to the Department of Education for payment, less any withholding or reduction imposed by the commission under § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements.

(B) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201

et seq., and rules established by the State Board of Education and the commission.

History. Acts 2005, No. 2206, § 1; 2007, No. 625, § 2; 2007, No. 989, §§ 9-11.

Amendments. The 2007 amendment by No. 625 deleted “for oversight purposes” from the end of (f)(1)(A); and added “less any withholding . . . commission’s insurance requirements” in (f)(1)(B).

The 2007 amendment by No. 989 redesignated former (b) as present (b)(1) and redesignated the remaining subdivisions accordingly; substituted “detailed narra-

tive, description, and justification” for “copy of the design plans” in (b)(1); added “that shall be . . . whichever is less” in (b)(1)(C)(i); added (b)(1)(C)(ii); substituted “the applicable school” for “existing academic facilities” in present (b)(1)(E); added (b)(2); deleted the former second sentence in (d)(1); added present (f)(1)(B); redesignated former (f)(1)(B) as present (f)(2)(A); and redesignated former (f)(2) as present (f)(2)(B).

6-20-2508. Academic Facilities Catastrophic Program.

(a) There is established the Academic Facilities Catastrophic Program under which the Division of Public School Academic Facilities and Transportation shall award state financial participation to a school district based on a school district’s academic facilities wealth index for eligible catastrophic repair and new construction projects for the purpose of supplementing insurance or other public or private emergency assistance received by or payable to the school district.

(b) A school district may apply for state financial participation in a catastrophic project if an academic facility in the district is damaged due to an act of God or violence that could not have been prevented by reasonable maintenance, repair, or renovation of the building.

(c) As part of its application for state financial participation in a catastrophic project, the school district shall provide the division with evidence of:

- (1) The estimated cost of the project;
- (2) The availability of insurance and any other public or private emergency assistance to pay for the project;
- (3) How the catastrophic project supports the prudent and resourceful expenditure of state funds and improves the school district’s ability to deliver an adequate and equitable education to public school students in the district; and
- (4) Proof of full replacement value insurance to include a provision requiring code upgrades.

(d)(1) The division shall evaluate a school district’s application for catastrophic assistance and may conduct an on-site inspection prior to making a decision on the application as it deems necessary.

(2) The division shall notify the school district of the division’s decision on the application and, if applicable, the amount of state financial participation. The division shall base its decision on several factors, including, without limitation:

(A) Compliance with appropriate academic facility standards, including, without limitation, appropriate space utilization;

(B) The amount and availability of insurance or other public or private emergency assistance;

(C) The academic facilities wealth index of the school district; and
 (D) The prudent and resourceful expenditure of state funds with regard to public school academic facilities.

(e)(1)(A) If a school district qualifies for state financial participation under this section, the division shall certify the amount of state financial participation to the Commission for Arkansas Public School Academic Facilities and Transportation.

(B) The amount of state financial participation under this section shall not exceed the amount resulting from the application of the academic facilities wealth index to the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual, less any withholding or reduction imposed by the commission under § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements, including without limitation, the failure to carry replacement cost coverage, if applicable, on all buildings and facilities.

(2)(A) The commission shall certify the amount to the Department of Education for payment.

(B) For tracking purposes, the school district shall account for the funds received as a state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(f) Every effort shall be made to conform a catastrophic project to current academic facilities standards, including appropriate space utilization requirements, unless in the judgment of the division it is impractical to conform the catastrophic project to current standards.

(g) A school district shall use state financial participation in a catastrophic program to pay the cost of only the portion of a catastrophic project that is not covered by insurance or other public or private emergency assistance received by or payable to the school district.

History. Acts 2005, No. 2206, § 1; 2007, No. 625, § 3; 2007, No. 989, §§ 12, 13.

Amendments. The 2007 amendment by No. 625 deleted "for oversight purposes" from the end of (e)(1)(A); added (e)(1)(B); and redesignated former (e)(1)(B) and (e)(2) as present (e)(2)(A) and (e)(2)(B).

The 2007 amendment by No. 989 added (c)(4); deleted "for oversight purposes" from the end of (e)(1)(A); added present (e)(1)(B); and redesignated former (e)(1)(B) and (e)(2) as present (e)(2)(A) and (e)(2)(B).

6-20-2509. Project cost guidelines.

(a)(1) The Division of Public School Academic Facilities and Transportation shall establish formulas that shall be updated annually by the fourth quarter of the calendar year for determining the basic project

cost per square foot for various types of new construction projects, including without limitation:

(A) New academic facilities;

(B) Additions to existing academic facilities; and

(C) Major improvements to academic facilities that bring the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the facility's original condition of completeness or efficiency.

(2) In establishing the formulas, the division shall take into consideration:

(A) The academic programs offered;

(B) Current enrollment levels;

(C) Enrollment projections;

(D) Grade configuration;

(E) The type of public school; and

(F) Nationally recognized design and construction standards for cost per square foot.

(3) The division shall establish a process for determining the cost of local enhancements and shall include a mechanism in the formulas for determining basic project cost that excludes the cost of local enhancements from the adjusted project cost.

(b)(1) When a school district applies for state financial participation, the division shall use the appropriate formula to compute an adjusted project cost.

(2) The division shall determine the estimated amount of the state's share of financial participation based on the adjusted project cost and the school district's wealth index as determined under § 6-20-2502.

History. Acts 2005, No. 2206, § 1; 2007, No. 989, § 14.

inserted "by the fourth quarter of the calendar year" and substituted "per square foot" for "per student."

Amendments. The 2007 amendment, in the introductory paragraph of (a)(1),

6-20-2510. Incentives for collaboration.

(a) It is the intent of the General Assembly to encourage school districts to explore and consider arrangements with other districts that have the potential to:

(1) Improve academic facilities and equipment available to the public school students in the districts;

(2) Result in improved transportation arrangements for public school students in the state;

(3) Create any type of efficiency for school districts or enhanced learning opportunities for public school students in the state; and

(4) Facilitate the highest and best use of state funds in support of public school academic facilities.

(b)(1) If school districts voluntarily consolidate or if one (1) school district annexes another school district, the Division of Public School Academic Facilities and Transportation shall use the lowest wealth index of the participating school districts to determine the amount of

state financial participation in the first eligible academic facilities project undertaken by the resulting school district.

(2) After the completion of the first academic facilities project, the division shall compute a new wealth index for the resulting district that shall be used to determine the amount of state financial participation in future academic facilities projects undertaken by the resulting school district.

History. Acts 2005, No. 2206, § 1.

6-20-2511. High-growth school districts.

(a) As used in this section:

(1) "High-growth school district" means a public school district in which the average daily membership for the public school district in the present school year is four percent (4%) higher than the school year that is two (2) years prior to the present school year; and

(2) "Maximum expected millage" means ten (10) mills, representing the maximum number of mills that a public school district is expected to raise to service its bonded indebtedness incurred for academic facilities.

(b) There is established the Academic Facilities High-Growth School District Loan Program under which the Department of Education shall provide an interest-free loan to a high-growth school district in which the mills required to service the bonded indebtedness incurred for academic facilities exceeds the maximum expected millage for the high-growth school district.

(c)(1) A high-growth school district may apply for an interest-free loan when the high-growth school district has raised the maximum expected millage and the revenue generated from the maximum expected millage is less than the amount required to service the bonded indebtedness incurred for academic facilities.

(2) The amount of the loan shall be the amount of moneys required for academic facilities less the sum of:

(A) The revenues generated by the maximum expected millage; and

(B) The state revenue received by the high-growth school district under the Academic Facilities Partnership Program.

(3) The high-growth school district shall apply for the loan from the Revolving Loan Fund, subject to §§ 6-20-801 — 6-20-816.

(d)(1) When the revenue required to service the bonded indebtedness incurred for the high-growth school district's academic facilities is less than the revenue generated by maximum expected millage, the high-growth school district shall repay the loan.

(2)(A) The high-growth school district shall make annual payments to the state in the amount of:

(i) The revenue generated by the high-growth school district's millage up to the amount of the revenues generated from the maximum expected millage for the year; less

(ii) The revenue required to service the high-growth school district's bonded indebtedness for academic facilities.

(B) The payments under this subsection (d) shall continue until the loan is paid in full.

(3) During the time that the loan to the high-growth school district is in repayment, the high-growth school district:

(A) Shall use all revenues generated below the maximum expected millage to repay the loan;

(B) Shall not issue refunding bonds or refunding certificates, as provided under § 6-20-815; and

(C) Shall not otherwise change the amount of revenues available to repay the loan without the prior approval of the department.

(e) Within a reasonable time after its receipt, each application under subsection (c) of this section shall be examined by the department in accordance with rules established by the State Board of Education as to the accuracy of the answers contained therein.

(f)(1) After considering the merits of each application, the department may, in its discretion, approve the application for the full amount of the proposed loan, approve the application for a loan of a lesser amount than the amount requested, or disapprove the application.

(2) Prior to approving the application, the department shall make a determination that the total space available in the high-growth school district is less than the amount needed to accommodate the growth of students.

(g) The Commission for Arkansas Public School Facilities and Transportation shall adopt rules to implement the program established by this section.

History. Acts 2005, No. 2206, § 1; 2007, No. 995, § 2.

A.C.R.C. Notes. Acts 2007, No. 995, § 1, provided: "Findings. The General Assembly finds that:

"(1) The General Assembly has examined the document 'Arkansas Department of Education, Percent Change in Three-Quarter Average ADMs Over 2 Years – 2005-2006 Required Debt Mills', dated February 28, 2007, and determined that thirty-two (32) of two hundred forty-five (245) school districts are now at or above ten (10) mills of debt service. This would seem to be well within range of school districts in Arkansas needing academic facilities improvements;

"(2) No evidence was presented during the 2006 Act 57 hearings of any school district suffering from a problem related to its inability to raise sufficient mills for academic facilities improvements;

"(3) However, the General Assembly should support a loan program for the

next biennium to assist districts that raise ten (10) mills for academic facilities and also have a four percent (4%) increase in growth over the previous two (2) years that is maintained in the present year; and

"(4) This short term loan program will enable the General Assembly to examine the success of this number of mills and the increase in students to resolve the unproven idea that there are school districts that are unable to construct facilities because there is a limit on the number of mills they can raise or should be required to feasibly raise and that growth is the cause."

Acts 2007, No. 995, § 3, provided: "The document attached hereto titled 'Arkansas Department of Education, Percent Change in Three-Quarter Average ADMs Over 2 Years — 2005-2006 Required Debt Mills', dated February 28, 2007, is specifically adopted by the House Education Committee and the Senate Education

Committee and recommended to the General Assembly and shall be filed in the journals of the House and Senate.”

Amendments. The 2007 amendment rewrote the section.

6-20-2512. Regulatory authority.

The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules necessary to administer this subchapter, which shall promote the intent and purposes of this subchapter and assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities throughout the state.

History. Acts 2005, No. 2206, § 1.

6-20-2513. Appeals.

(a) A school district may appeal any determination of the Division of Public School Academic Facilities and Transportation under this subchapter to the Commission for Arkansas Public School Academic Facilities and Transportation in accordance with procedures developed by the commission.

(b) All decisions of the commission resulting from a school district's appeal of a division determination under this subchapter shall be final and shall not be subject to further appeal or request for rehearing to the commission or petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2005, No. 2206, § 1.

6-20-2514. Academic Facilities Extraordinary Circumstances Program.

(a) The General Assembly finds that:

(1) In *Lake View School District No. 25 v. Huckabee*, 01-836 (Ark. 12-15-2005), the Arkansas Supreme Court raised concerns that some school districts might not receive any state financial assistance with academic facilities projects because the districts might not have sufficient resources to qualify for state funds under this subchapter, which requires a local contribution based on the relative wealth of the district;

(2) During the 2006 hearings conducted by the House Interim Committee on Education and Senate Interim Committee on Education after the 2005 Arkansas Supreme Court decision in the *Lake View* matter, no school district came forward to testify that the district will be unable to adequately repair, renovate, or construct school buildings;

(3) The contention in subdivision (a)(1) of this section, while not without merit as a theory, has not been substantiated. Therefore, the implementation and funding of a program to provide additional state financial assistance to school districts with limited resources is premature; and

(4) While implementation and funding may be premature, the development of a program to provide state financial assistance to eligible school districts that do not have sufficient means to contribute an amount of local resources necessary to qualify for state financial participation should be initiated immediately.

(b)(1) The Commission for Arkansas Public School Academic Facilities and Transportation shall develop by rule the Academic Facilities Extraordinary Circumstances Program under which the Division of Public School Academic Facilities and Transportation shall provide state financial assistance to eligible school districts that do not have sufficient means to contribute an amount of local resources necessary to qualify for state financial participation under the Academic Facilities Partnership Program, § 6-20-2507, or the Academic Facilities Catastrophic Program, § 6-20-2508.

(2) At a minimum, eligibility criteria for the Academic Facilities Extraordinary Circumstances Program shall address:

- (A) School districts with declining enrollment;
- (B) School districts with rapid enrollment growth;
- (C) School districts with insufficient bonding capacity;
- (D) School districts with low assessed-property valuations;
- (E) School districts at or above the ninety-fifth percentile on the academic facilities wealth index; and
- (F) Any other circumstance deemed extraordinary by the division.

(3) At a minimum, the application process for the Academic Facilities Extraordinary Circumstances Program shall require a school district to provide the division with evidence of:

- (A) The estimated cost of the project;
- (B) The amount of local resources available to contribute to the project;
- (C) The amount and availability of funds from school district fund balances;
- (D) The amount and availability of other public or private assistance;
- (E) Effort made by the school district and the local community to develop and provide local resources; and
- (F) How state financial participation, if granted, will support the prudent and resourceful expenditure of state funds and will improve the school district's ability to deliver an adequate and equitable education to public school students in the district.

(c) The division shall report to the General Assembly by January 15, 2007, on the development of the Academic Facilities Extraordinary Circumstances Program and shall obtain formal legislative approval before implementing the Academic Facilities Extraordinary Circumstances Program.

6-20-2515. Review conferences.

(a) After February 1, 2008, a district may request and be granted by the Division of Public School Academic Facilities and Transportation a review conference that shall be held within twenty (20) working days after the date of request.

(b) The district may be advised through the review conference process by an architectural and engineering firm if the school district pays the cost for the advice from the architectural and engineering firm.

(c) The review conference shall consider the following:

(1) That the proposed project is academic;

(2) The application of the space calculation to the project agreed upon by the district and the division;

(3) The wealth index of the district and the date at which the wealth index will be applied to the partnership project if approved;

(4) The project cost promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation under § 6-20-2509 for the project and the date on which the project cost data will be applied to the partnership project if approved; and

(5) A projected amount of state funding based on current application of the wealth index and the project cost promulgated by the commission under § 6-20-2509 to the planned project for planning purposes to allow a projection of local funding share required.

(d) The division shall make a record of the findings of the review conference.

History. Acts 2007, No. 989, § 15.

**SUBCHAPTER 26 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES
FINANCING ACT OF 2007**

SECTION.

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6-20-2623. Issuance of bonds.

A.C.R.C. Notes. Acts 2007, No. 1021, § 1, provided:

- “(a) The General Assembly finds:
- “(1) Holdings in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), require the State of Arkansas to provide adequate public school academic facilities for students in the state; and
- “(2) It is the duty of the General Assembly to guarantee that adequate funds exist

to meet public school academic facilities needs.

- “(b) The purpose of this act is to provide a mechanism for public school academic facilities in the event that moneys on hand are not sufficient to meet facilities needs.”

6-20-2601. Title.

This subchapter shall be known and may be cited as the “Arkansas Public School Academic Facilities Financing Act of 2007”.

History. Acts 2007, No. 1021, § 2.

6-20-2602. Definitions.

- As used in this subchapter:
- (1) “Bonds” means any bonds, notes, interim certificates, or other evidences of indebtedness;
- (2) “Commission” means the Commission for Arkansas Public School Academic Facilities and Transportation or its successor;
- (3) “Debt service” means principal, interest, redemption premiums, if any, and trustee’s fees, paying agent’s fees, dissemination agent’s fees, and like servicing fees relative to a bond;
- (4) “Develop” means to plan, design, construct, acquire by purchase, own, rehabilitate, lease as lessor or lessee, enter into lease-purchase agreements with respect to, or install or equip any lands, buildings, improvements, machinery, equipment, or other properties of whatever nature, real, personal, or mixed;
- (5) “Federal Deposit Insurance Corporation” means the Federal Deposit Insurance Corporation or its successor that insures commercial banks;
- (6) “General revenues of the state” means the revenues described and enumerated in § 19-6-201 of the Revenue Classification Law, § 19-6-101 et seq., or in any successor law;
- (7) “Nationally recognized rating agency” means Moody’s Investors Service, Inc., Standard & Poor’s, Fitch Ratings, or any other nationally recognized rating agency approved by the State Investing Office; and
- (8) “State Investing Office” means the Treasurer of State for the investment of any funds established on the books of the State Treasury, and the commission for the investment of any funds held outside the State Treasury.

History. Acts 2007, No. 1021, § 2.

6-20-2603. Authority to issue bonds.

(a)(1)(A) The Commission for Arkansas Public School Academic Facilities and Transportation is hereby authorized to issue bonds of the State of Arkansas to be known as State of Arkansas Public School Academic Facilities General Obligation bonds, in total principal amount not to exceed seven hundred fifty million dollars (\$750,000,000), for the purposes of this subchapter.

(B) The limitation on the total principal amount of bonds under subdivision (a)(1)(A) of this section is a limitation on the total principal amount of indebtedness to be repaid by the State of Arkansas.

(2) The bonds may be issued in one (1) or more series as required under this subchapter.

(b) Unless the General Assembly authorizes a greater principal amount to be issued during a fiscal biennium, the total principal amount of bonds to be issued during any fiscal biennium shall not exceed one hundred fifty million dollars (\$150,000,000).

(c)(1) Before any bonds may be issued during a fiscal biennium, the commission shall submit to the Governor a written plan:

(A) Setting forth criteria to be used by the commission in choosing the public school academic facilities projects to be financed with the proceeds derived from the sale of the bonds; and

(B) Requesting authorization for the projected maximum principal amount of bonds required to be issued in the fiscal biennium.

(2) Upon receipt of the written plan, the Governor shall:

(A) Confer with the Chief Fiscal Officer of the State concerning whether the annual amount of general revenue funds required to be set aside from the general revenues of the state under the Revenue Stabilization Law, § 19-5-101 et seq., for payment of debt service requirements in connection with the bonds during either year of the fiscal biennium in which the bonds are to be issued would require moneys from the general revenues of the state that would work undue hardship upon any agency or program supported from the general revenues of the state under the provisions of the Revenue Stabilization Law, § 19-5-101 et seq.; and

(B) Upon compliance with subdivision (c)(2)(A) of this section, obtain the review of:

(i) The Joint Budget Committee if the General Assembly is in session; or

(ii) The Legislative Council if the General Assembly is not in session.

(d)(1) If the Governor deems it to be in the public interest, he or she by proclamation shall authorize the commission to proceed with the issuance of the bonds in one (1) or more series up to the maximum principal amount for the fiscal biennium approved by the Governor.

(2)(A) If the Governor refuses to give his or her approval for the issuance of the bonds by declining to issue a proclamation approving

the issuance, he or she shall promptly notify the commission in writing and the bonds shall not be issued.

(B) The commission may resubmit a request to the Governor for the approval of the issuance of the bonds.

(C) The issue as resubmitted to the Governor shall be dealt with in the same manner as provided for the initial request for authority to issue the bonds.

History. Acts 2007, No. 1021, § 2.

6-20-2604. Terms and characteristics of bonds.

(a) The bonds shall be issued in series in amounts sufficient to finance all or any part of public school academic facility project costs with the respective series to be designated in alphabetical order, or by the year in which issued, or both.

(b)(1) Each series of bonds shall have the date as the Commission for Arkansas Public School Academic Facilities and Transportation determines and shall mature or be subject to mandatory sinking fund redemption as determined by the commission over a period ending not later than thirty (30) years after the date of the bonds of each series.

(2) Pending the issuance of bonds under this subchapter, the commission may issue temporary notes maturing not more than five (5) years from the date of issuance to be exchanged for or paid from the proceeds of bonds when the bonds are issued.

(c)(1) Each series of bonds shall bear interest whether or not subject to federal income taxation at the rate or rates accepted by the commission.

(2) Interest shall be payable at such times as the commission shall determine.

(d) The commission shall determine:

(1) The form of the bonds;

(2) The denomination of the bonds;

(3) Whether the bonds may be exchanged for bonds of another form or denomination bearing the same rate of interest and date of maturity;

(4) Whether the bonds may be payable within or without the state;

(5) Whether the bonds may be subject to redemption prior to maturity, including:

(A) The manner of redemption; and

(B) The redemption prices; and

(6) Any other terms and conditions of the bonds.

(e) The bonds shall have all the qualities of negotiable instruments or securities under the laws of the state, subject to the provision for registration of ownership.

History. Acts 2007, No. 1021, § 2.

6-20-2605. Purpose of bonds.

Bonds issued under this subchapter shall be issued to finance on a temporary or permanent basis or to develop one (1) or more public school academic facility projects, and the proceeds of the bonds shall be applied to the payment of public school academic facility project costs, the costs and expenses of issuance of the bonds, the repayment of indebtedness incurred to pay public school academic facility project costs, or for refunding of bonds as provided in § 6-20-2613.

History. Acts 2007, No. 1021, § 2.

6-20-2606. Resolutions and trust indentures.

(a) The bonds shall be authorized by resolution of the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) Each resolution shall contain the terms, covenants, and conditions deemed desirable for the bonds, including without limitation conditions pertaining to:

(1) The establishment and maintenance of funds and accounts;

(2) The deposit and investment of revenues and of bond proceeds; and

(3) The rights and obligations of the state, its officers and officials, the commission, and the registered owners of the bonds.

(c) The resolution of the commission may provide for the execution and delivery by the commission of one (1) or more trust indentures with one (1) or more banks or trust companies located within or without the state, containing any of the terms, covenants, and conditions stated in subsection (b) of this section.

(d) A trust indenture shall be binding upon the state and its agencies, officers, and officials to the extent set forth in this subchapter.

History. Acts 2007, No. 1021, § 2.

6-20-2607. Form of bond — Signatures.

(a) Each bond shall:

(1) Be signed with the manual or facsimile signatures of the Governor, the members of the Commission for Arkansas Public School Academic Facilities and Transportation, and the Treasurer of State; and

(2) Have affixed, imprinted, or lithographed on the bond the Great Seal of the State of Arkansas.

(b) Interest coupons attached to the bonds, if any, shall be signed with the facsimile signature of the Treasurer of State.

(c) Delivery of the bonds and coupons so executed shall be valid notwithstanding any change in persons holding such offices occurring after the bonds have been executed.

History. Acts 2007, No. 1021, § 2.

6-20-2608. Sale of bonds.

(a) The bonds may be sold:

(1) Either at public or private sale in a manner and upon such terms as the Commission for Arkansas Public School Academic Facilities and Transportation determines to be reasonable and expedient for the purposes for which the commission was created; and

(2) At the price the commission determines acceptable, including sale at a discount.

(b) The commission may employ administrative agents, fiscal agents, underwriters, architects, accountants, engineers, and legal counsel and may pay them reasonable compensation from the proceeds of the bonds.

(c) The fees of any trustee or paying agent as well as the costs of publication of notices and of printing of the bonds, official statements, and other documents relating to the sale of the bonds, the fees of any rating agency, and other reasonable costs of issuing and selling the bonds incurred by the commission may be paid from the proceeds of the bonds.

History. Acts 2007, No. 1021, § 2.

6-20-2609. Proceeds of bonds.

(a) The proceeds from the sale of the bonds shall be deposited by the recipient thereof, as received, into trust funds either established in the State Treasury or into accounts established outside the State Treasury in the name of the Commission for Arkansas Public School Academic Facilities and Transportation to accomplish the purposes of this subchapter in amounts or portions as set forth in the resolution or trust indenture authorizing or securing the bonds issued to finance the development of public school academic facilities projects.

(b)(1) There is established as a trust fund in the State Treasury an account designated as the School Academic Facilities Financing Act of 2007 Bond Fund that is being created to provide for payment of all or a part of the debt service in connection with bonds issued under this subchapter.

(2)(A) The Treasurer of State shall establish separate accounts and subaccounts within the fund to correspond to the applicable series of bonds.

(B) In addition, there may be created in the State Treasury such other funds, accounts, or subaccounts as the commission may determine to be necessary to accomplish the purposes of this subchapter.

(c)(1) All procedures and methods for the application of proceeds of any series of bonds to the financing of public school academic facilities project costs shall be set forth in writing.

(2) The writings shall be maintained as a part of the records of the commission.

(d) The proceeds from the sale of the bonds and any moneys in the bond fund may be invested and reinvested by the State Investing Office in any of the following:

(1) Direct obligations of the United States of America, including obligations issued or held in book-entry form on the books of the Commission of the Treasury or obligations that are unconditionally guaranteed as to principal and interest by the United States of America;

(2) Bonds, debentures, notes, or other evidences of indebtedness issued or guaranteed by any agencies of the United States government that are backed by the full faith and credit of the United States of America;

(3) Senior debt obligations issued or guaranteed by agencies of the United States government that are non full-faith and credit agencies;

(4) Money market funds investing exclusively in the investments described in subdivision (d)(1), subdivision (d)(2), or subdivision (d)(3) of this section;

(5) Certificates of deposit providing for deposits secured at all times by collateral described in subdivision (d)(1), subdivision (d)(2), or subdivision (d)(3) of this section if:

(A) The certificates of deposit are issued by commercial banks whose deposits are insured by the Federal Deposit Insurance Corporation and whose collateral is held by a third party; and

(B) The State Investing Office or its assigns have a perfected first security interest in the collateral;

(6) Certificates of deposit, savings accounts, deposit accounts or money market deposits, all of which are fully insured by the Federal Deposit Insurance Corporation;

(7) Bonds or notes issued by the state or any municipality, county, school district, community college district, or regional solid waste management district in the state or any agency or instrumentality of the state;

(8) Investment agreements with financial institutions or insurance companies that are rated in one (1) of the two (2) highest rating categories of a nationally recognized rating agency;

(9) Repurchase agreements providing for the transfer of securities from a dealer bank or securities firm to the State Investing Office and the transfer of cash from the State Investing Office to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the State Investing Office in exchange for the securities at a specified date if the repurchase agreements satisfy the following criteria:

(A) Repurchase agreements must be between the State Investing Office and a dealer bank or securities firm described as follows:

(i) Dealers with at least one hundred million dollars (\$100,000,000) in capital; or

(ii) Banks whose deposits are insured by the Federal Deposit Insurance Corporation; and

(B) The written repurchase agreement contract must include the following:

(i) Securities that are acceptable for transfer are those listed in subdivision (d)(1), subdivision (d)(2), or subdivision (d)(3) of this section;

(ii) The term of the repurchase agreement may be up to thirty (30) days;

(iii) The collateral must be delivered to the State Investing Office, to a trustee if the trustee is not supplying the collateral, or to a third party acting as agent for the trustee if the trustee is supplying the collateral, before or at the time of the payment and perfection by possession of certificated securities; and

(iv)(a) The securities must be valued weekly, market-to-market at current market price plus accrued interest.

(b) The value of collateral must be equal to one hundred three percent (103%) of the amount of cash transferred by the State Investing Office to the dealer bank or security firm under the repurchase agreement plus accrued interest.

(c) If the value of securities held as collateral declines below one hundred three percent (103%) of the value of the cash transferred by the State Investing Office, then additional cash, acceptable securities, or a combination of cash and securities must be transferred and held by the State Investing Office; and

(10) Any other investment authorized by state law.

History. Acts 2007, No. 1021, § 2.

6-20-2610. Full faith and credit of state pledged to repay bonds.

The bonds shall be the direct general obligations of the state for the payment of debt service on which the full faith and credit of the state are irrevocably pledged so long as any such bonds are outstanding. The bonds shall be payable from the general revenues of the state, and the amount of general revenues of the state as is necessary is and shall remain pledged to the payment of debt service on the bonds.

History. Acts 2007, No. 1021, § 2.

6-20-2611. Payment of debt service on the bonds.

(a)(1) On or before the commencement of each fiscal year, the Chief Fiscal Officer of the State shall determine the estimated amount required for payment of all or a part of the debt service on the bonds issued under this subchapter during the fiscal year to determine what amount of general revenues of the state will be required.

(2) The Chief Fiscal Officer of the State shall certify the estimated amount to the Treasurer of State.

(3) The Treasurer of State shall then make monthly transfers from the State Apportionment Fund to the School Academic Facilities Financing Act of 2007 Bond Fund of the amount of general revenues of the state required to pay the maturing debt service on bonds issued under this subchapter.

(b)(1) The obligation to make monthly transfers of general revenues of the state from the State Apportionment Fund to the School Academic Facilities Financing Act of 2007 Bond Fund shall constitute a first charge against the general revenues of the state prior to all other uses to which the general revenues of the state are devoted, either under present law or under any laws that may be enacted in the future.

(2) However, to the extent other general obligation bonds of the state have been issued or may subsequently be issued, all general obligation bonds shall rank on a parity of security with respect to payment from general revenues of the state.

(c) Moneys credited to the School Academic Facilities Financing Act of 2007 Bond Fund shall be used only to pay debt service on the bonds, either at maturity or upon redemption prior to maturity and for such purposes the Treasurer of State is designated Disbursing Officer to administer such funds in accordance with this subchapter.

(d) Moneys in the School Academic Facilities Financing Act of 2007 Bond Fund over and above the amount necessary to insure the prompt payment of debt service on the bonds and the establishment and maintenance of a reserve fund, if any, may be used for the redemption of bonds prior to maturity under the provisions pertaining to redemption prior to maturity, as set forth in the resolution or trust indenture authorizing or securing the bonds.

History. Acts 2007, No. 1021, § 2.

6-20-2612. Bonds exempt from state, county, and municipal taxes.

Bonds and the interest on the bonds issued under this subchapter are exempt from state, county, and municipal taxes, including income taxes, inheritance taxes, and property taxes. The bonds shall be eligible to secure deposits of all public funds and shall be legal for investment of bank funds, fiduciary funds, insurance company funds, trust funds, and public funds.

History. Acts 2007, No. 1021, § 2.

6-20-2613. Refunding bonds.

(a)(1) Bonds may be issued under this subchapter to refund any outstanding bonds issued under this subchapter.

(2) Bonds issued under this section:

(A) Do not require the Commission for Arkansas Public School Academic Facilities and Transportation to submit a written plan to the Governor under § 6-20-2603(c); and

(B) Are not subject to the requirements for the approval and proclamation of the Governor under § 6-20-2603(d).

(b)(1) The refunding bonds may be either sold for cash or delivered in exchange for the outstanding obligations.

(2) If sold for cash, the proceeds may be applied to the payment of the obligations refunded or may be deposited in irrevocable trust for the retirement of the outstanding obligations either at maturity or on an authorized redemption date.

(c)(1) Refunding bonds shall in all respects be authorized, issued, and secured as provided for the bonds being refunded and shall have all the attributes of the refunded bonds.

(2) To the extent that the refunding bonds are not in a greater principal amount than the outstanding principal amount of the bonds being refunded, the principal amount of the refunding bonds shall not be subject to the limit of seven hundred fifty million dollars (\$750,000,000) set forth in § 6-20-2603(a) or the limit of one hundred fifty million dollars (\$150,000,000) set forth in § 6-20-2603(b).

(d) The resolution or trust indenture under which the refunding bonds are issued shall provide that any refunding bonds shall have the same priority of payment as the obligations refunded.

History. Acts 2007, No. 1021, § 2.

6-20-2614. Additional powers of the commission.

In addition to powers conferred under other laws, the Commission for Arkansas Public School Academic Facilities and Transportation may take appropriate action to carry out the purposes of this subchapter.

History. Acts 2007, No. 1021, § 2.

6-20-2615. No impairment of bond obligations.

(a) This subchapter constitutes a contract between the state and the registered owners of all bonds issued under this subchapter.

(b) The contract shall never be impaired, and any violation of its terms whether under purported legislative authority or otherwise shall be enjoined by the courts at the suit of any bondholder or any taxpayer.

(c) In like suit against the Commission for Arkansas Public School Academic Facilities and Transportation, the Treasurer of State, or other appropriate agency, officer, or official of the state, the courts shall prevent a diversion of any revenues pledged hereunder and shall compel the restoration of diverted revenues by injunction or mandamus.

(d) Without limiting any other appropriate remedy at law or in equity, a bondholder may, by an appropriate action including without limitation injunction or mandamus, compel the performance of all covenants and obligations of the state, its officers and officials, under this subchapter.

History. Acts 2007, No. 1021, § 2.

6-20-2616. No obligations until bonds issued.

This subchapter shall not create any right of any character unless the first series of bonds authorized by this subchapter has been sold and delivered.

History. Acts 2007, No. 1021, § 2.

6-20-2617. Election.

(a)(1)(A) Bonds shall not be issued under this subchapter except with the consent of a majority of the qualified electors of the state voting on the question in substantially the form described in this section at any general election as determined by the Governor, unless the Governor by proclamation calls a special election concerning the issuance of bonds under this subchapter.

(B) If the Governor does not place the issue on the ballot at any general election or call a special election concerning the issuance of bonds under this subchapter on or before June 30, 2011, the provisions of this subchapter shall be void, and no bonds shall be issued.

(2) If the question is presented at a general election, notice thereof shall be published by the Secretary of State by one (1) insertion in a newspaper of general circulation in the state at least sixty (60) days prior to the general election, and notice thereof shall be mailed to each county board of election commissioners and the sheriff of each county at least sixty (60) days prior to the general election.

(3) If a special election is called by the Governor, the proclamation of the special election shall be made at least sixty (60) days prior to the date fixed by the proclamation for the election, and notice of the special election shall be given by publication of the proclamation for one (1) insertion in one (1) newspaper of general circulation published in each county in the state not less than thirty (30) days prior to the date of the special election.

(4) If there is no newspaper regularly published in a county, the proclamation may be published in any newspaper having a general circulation in the county.

(b) In the case of the notice or proclamation for the election, it shall not be necessary to publish this subchapter in its entirety, but the notice or proclamation shall state that it is issued to submit to the people substantially the following question:

“Shall the commission be authorized to issue General Obligation bonds under the authority of the Arkansas Public School Academic Facilities Financing Act of 2007, for the financing of public school academic facilities to serve the citizens of the State of Arkansas, in total principal amount not to exceed seven hundred fifty million dollars (\$750,000,000) in series from time to time in principal amounts not to exceed, without prior approval of the General Assembly, one hundred fifty million dollars (\$150,000,000) in any fiscal biennium, which bonds shall be secured by a pledge of the full faith and credit of the State of Arkansas?”

(c) Whether the question is presented at a general election or at a special election, the title of this subchapter shall be the ballot title, and there shall be printed on the ballot the proposition as stated above and the following:

“FOR Issuance of State of Arkansas Public School Academic Facilities General Obligation bonds _____

AGAINST Issuance of State of Arkansas Public School Academic Facilities General Obligation bonds _____”

(d)(1) The county boards of election commissioners of the several counties of the state shall hold and conduct the election, and each board may take action with respect to the appointment of election officials and other matters as the law requires.

(2) The vote shall be canvassed and the result declared in each county by the county boards of election commissioners.

(3) Within ten (10) days after the date of the election the results shall be certified by the county boards of election commissioners to the Secretary of State who shall tabulate all returns received by him or her and certify to the Governor the total vote for and against the proposition submitted under this section.

(e) The result of the election shall be proclaimed by the Governor by publication one (1) time in a newspaper published in the City of Little Rock, Arkansas, and the results as proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of the publication.

History. Acts 2007, No. 1021, § 2.

6-20-2618. Effect of election.

(a) If a majority of the qualified electors voting on the question vote for the issuance of the bonds, the Commission for Arkansas Public School Academic Facilities and Transportation shall proceed with the sale and the issuance of the bonds as provided in this subchapter.

(b) If a majority of the qualified electors voting on the question vote against the issuance of the bonds, the bonds authorized by this subchapter shall not be sold or issued, and this subchapter shall be of no further effect.

History. Acts 2007, No. 1021, § 2.

6-20-2619. No waiver of previous authority to issue bonds.

This subchapter shall not constitute a waiver of the authority to issue bonds under any other legislation authorizing the issuance of bonds for similar purposes.

History. Acts 2007, No. 1021, § 2.

6-20-2620. Severability.

If, for any reason, any section or provision of this subchapter shall be held to be unconstitutional or invalid for any reason, such holding shall not effect the remainder of this subchapter, but this subchapter, insofar as it is not in conflict with the Arkansas Constitution or the United States Constitution, shall be permitted to stand, and the various provisions of this subchapter are hereby declared to be severable for that purpose.

History. Acts 2007, No. 1021, § 2.

6-20-2621. Cases involving bonds.

A case involving the validity of this subchapter or involving the bonds issued under this subchapter shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases shall be taken within thirty (30) days after rendition of the judgment or decree.

History. Acts 2007, No. 1021, § 2.

6-20-2622. Construction of subchapter.

(a) This subchapter shall be liberally construed to accomplish its purposes. This subchapter shall constitute the sole authority necessary to accomplish the purposes hereof, and to this end it shall not be necessary that the provisions of other laws pertaining to the development of public facilities and properties and the financing thereof be complied with.

(b) This subchapter shall be interpreted to supplement existing laws conferring rights and powers upon the Commission for Arkansas Public School Academic Facilities and Transportation, and the rights and powers set forth in this subchapter shall be regarded as alternate methods for the accomplishment of the purposes of this subchapter.

History. Acts 2007, No. 1021, § 2.

6-20-2623. Issuance of bonds.

No bonds shall be issued under this subchapter before July 1, 2009.

History. Acts 2007, No. 1021, § 2.

CHAPTER 21**SCHOOL PROPERTY AND SUPPLIES****SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. EQUAL ACCESS ACT.
3. ACQUISITION OF COMMODITIES GENERALLY.

SUBCHAPTER

- 4. FREE TEXTBOOK ACT.
- 5. PUBLIC RECREATION AND PLAYGROUNDS.
- 6. MISCELLANEOUS OFFENSES.
- 7. SCHOOL MOTOR VEHICLE INSURANCE ACT.
- 8. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT.

RESEARCH REFERENCES

Am. Jur. 68 Am. Jur. 2d, Schools, § 71 et seq., § 303 et seq.

C.J.S. 78 C.J.S., Schools, § 16. 79 C.J.S., Schools, § 239 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-21-101. Authority to permit use of public school buildings for community purposes.
- 6-21-102. Donation of laboratory equipment seized under drug paraphernalia law.
- 6-21-103. Authority to contract for military training equipment — Costs.
- 6-21-104. Distribution of surplus commodities in school lunch program.
- 6-21-105. Braille and large print textbooks.
- 6-21-106. Fire hazards inspection prior to closing for breaks.
- 6-21-107. Official computer use policy.
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SECTION.

- erty for educational purposes only.
- 6-21-109. Rules governing public works projects.
- 6-21-110. Rules and regulations governing disposition of school property.
- 6-21-111. Definitions.
- 6-21-112. Division of Public School Academic Facilities and Transportation.
- 6-21-113. Advisory Committee on Public School Academic Facilities.
- 6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.
- 6-21-115. Name of division — Operation — Director.
- 6-21-116. Approval of building plans.

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future

to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1955, No. 176, § 3: Mar. 8, 1955. Emergency clause provided: "It is hereby determined by the General Assembly that the educational institutions of this State that offer military training are in need of immediate passage of law authorizing such agencies to enter into agreements

with the Federal Government relative to the use of property and equipment in such military training courses, and that the passage of this act is necessary to grant such authority. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 249, § 13: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 2001, No. 912, § 3: Mar. 19, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the establishment of internet use policies for our public schools and libraries is vital; and that until this act goes into effect, minors will not be afforded the protection which will result from this act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1214, § 2: Mar. 30, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the existing bonded indebtedness limit on school districts that are facing

unexpected, unforeseen or extreme hardship is too low and that the immediate passage of this act is necessary for the increase of the limitation. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 90, § 5: emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; the Arkansas Supreme Court set forth the test for a constitutional system to be a system in which the state has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; and that this act is immediately necessary because the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1327, § 8: Mar. 29, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Fa-

cilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that the Division of Public School Academic Facilities and Transportation is charged with the administration of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that the division must be given authority to immediately begin work on developing programs to provide constitutionally appropriate public school academic facilities for the benefit of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1424, § 3: Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in the State of Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of school facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that one of the recommendations of the joint committee is to authorize the Division of Public School Academic Facilities to begin work immediately as a viable state agency; that the new division immediately needs, and will continue to need, the advice of an advisory committee comprised of members with expertise in public school design and construction and with issues particular to providing adequate and equitable public school academic facilities; that an advisory committee with the necessary expertise does not currently exist; that in response to the work of the joint committee, the General Assembly is in the process of developing and enacting legislation de-

signed to establish a comprehensive program for overseeing the provision of adequate and substantially equal public school academic facilities across the state; that the General Assembly immediately needs, and will continue to need, the advice of an organized legislative committee comprised of members with expertise in issues particular to providing adequate and equitable public school academic facilities; and that an organized legislative committee with the necessary expertise does not currently exist. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1672, § 6: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the study of staffing needs conducted pursuant to Act 64 of the Second Extraordinary Session of 2003 determined that the Department of Education is in need of reorganization; that this act would reorganize the department to help the department become more efficient and effective; and that to aid an orderly transition this act should become effective at the beginning of the next fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2006 (1st Ex. Sess.), Nos. 32 and 33, § 4: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity the General Assembly must guarantee the provision of adequate academic facilities; and that the continued existence of the Commission for Arkansas Public School Academic Facilities and Transportation will assist the state in its

efforts to guarantee adequate academic facilities for students throughout the state. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2007, No. 625, § 4: Mar. 28, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the state’s public schools in some cases may not be adequately insured to provide for the rebuilding of classrooms and facilities and continuing the provision of a quality education; that uninsured losses harm the state’s ability to establish and maintain appropriate educational facilities for its students; and that this act is necessary to ensure that the Commission for Arkansas Public School Academic Facilities and Transportation in consultation with the Insurance Commissioner examine and ad-

dress the state’s public facility insurance needs to immediately address any deficiencies and maximize the state’s educational resources. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that dissolving the offices at the beginning of the state’s fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

6-21-101. Authority to permit use of public school buildings for community purposes.

The directors of any school district may permit the use of the public schoolhouse for social, civic, and recreational purposes or any other community purpose, including any lawful meetings of its citizens, provided such meetings do not interfere with the regular school work, and the directors may make a charge therefor if they deem it proper to do so.

History. Acts 1931, No. 169, § 174; Pope’s Dig., § 11616; A.S.A. 1947, § 80-517.

CASE NOTES

Operation of Tuition School.

A school board is authorized to permit the use of a public school building by teachers for the purpose of operating a

tuition school after the closing of a public free school on account of the exhaustion of school funds. *Burrow v. Pocahontas School Dist.*, 190 Ark. 563, 79 S.W.2d 1010 (1935).

6-21-102. Donation of laboratory equipment seized under drug paraphernalia law.

Any triple-beam balance or analytical balance or other laboratory equipment seized under Arkansas's drug paraphernalia law, or any other law, may be donated by the seizing authority to any public school in this state.

History. Acts 1991, No. 272, § 1.

Publisher's Notes. Former § 6-21-102, concerning authority to permit use of public school buildings by private schools, was repealed by Acts 1989, No. 950, § 1.

The former section was derived from Acts 1875 (Adj. Sess.), No. 46, § 77, p. 55; C.&M. Dig., § 8934; Pope's Dig., § 11725; A.S.A. 1947, § 80-518.

6-21-103. Authority to contract for military training equipment — Costs.

(a) Each school district board of directors in the State of Arkansas shall have authority:

(1) To enter into contracts for the use of property and equipment for military training purposes;

(2) To enter into any mutually agreeable contract incidental thereto as may be required by federal law or regulations of the Secretary of the Army, Navy, or Air Force, or other federal officer or agency, for the care and safekeeping of the property and equipment, or for similar purposes; and

(3) To make reimbursement for the property and equipment.

(b)(1) The cost of any bonds or security and reimbursements shall be paid from funds available for the operation of the school district.

(2) This includes, but is not limited to, the authority to obligate any funds available, whether by appropriation or otherwise, for the purpose of executing bonds to secure the safekeeping and return of United States Government property issued in connection with military training purposes.

History. Acts 1955, No. 176, § 1; A.S.A. 1947, § 80-3317.

Publisher's Notes. Acts 1955, No. 176, § 1, is also codified as § 6-62-102.

6-21-104. Distribution of surplus commodities in school lunch program.

Upon the request of the State Board of Education and with the approval of the Director of the Department of Finance and Administration, the Department of Finance and Administration may administer the program of distribution of surplus commodities in the school lunch program under such arrangements with respect to the employment of personnel and the payment of the salaries of personnel, and maintenance, as may be mutually agreeable with the agencies above mentioned.

History. Acts 1953, No. 542, § 6; A.S.A. 1947, § 80-131.1.

6-21-105. Braille and large print textbooks.

(a) It is declared to be the duty of the Arkansas School for the Blind to provide braille and large print textbooks for blind and visually impaired students attending public schools in this state.

(b) The superintendents of school districts shall make application to the Superintendent of the Arkansas School for the Blind for textbooks of braille and large print when students in school districts qualify for such books and the requested textbooks are required for other students in the district.

History. Acts 1985, No. 249, §§ 8, 9; A.S.A. 1947, §§ 80-1768, 80-1769.

A.C.R.C. Notes.

Acts 2007, No. 326, § 12, provided:

“The State Board of Education shall make reasonable rules and regulations to implement the Braille and Large Print

Textbooks appropriation and is hereby authorized to negotiate directly with publishers of Braille and Large Print Textbooks for the purchase of such textbooks.

“The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009.”

6-21-106. Fire hazards inspection prior to closing for breaks.

(a)(1) At least seven (7) calendar days prior to the beginning of Christmas break, the school superintendent of each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings. If the chief executive officer of the fire department receives the request at least seven (7) calendar days prior to the beginning of Christmas break, he or she shall cause the school buildings to be inspected for fire hazards. The inspection shall be conducted prior to the beginning of Christmas break.

(2) At least seven (7) calendar days prior to the end of the school year, the school superintendent of each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings. If the chief executive officer of the fire department receives the request at least seven (7) calendar days prior to the end of the school year, he or she shall cause the buildings to be inspected for fire hazards. The inspection shall occur prior to the end of the school year.

(b) The chief executive officer of the fire department shall file a written report of the inspection with the superintendent for the school district where the public school building is located within ten (10) calendar days after the inspection.

(c) The inspection shall be at no cost to the school.

(d)(1) The superintendent shall file a written report with the chief executive officer of the fire department within seven (7) calendar days after receiving the inspection report.

(2) The superintendent's report shall indicate:

(A) What action was taken in response to the inspection report and the date the action was completed; or

(B) What action will be taken in response to the inspection by the chief executive officer of the fire department and the anticipated date of completion of the action.

(3) If the inspection report of the fire department includes deficiencies that require a response or other action, the superintendent shall also file the superintendent's report required by this subsection (d) with the State Fire Marshal Enforcement Section of the Department of Arkansas State Police.

(e)(1)(A) If the superintendent does not receive a written inspection report for a public school building as required by this section from the chief executive officer of the fire department providing fire protection to the public school building, the superintendent shall notify:

(i) The State Fire Marshal Enforcement Section of the Department of Arkansas State Police; and

(ii) The quorum court of the county in which the fire department is located.

(B) The superintendent shall provide the notifications required by this subdivision (e)(1) not less than thirty (30) days from the date the inspection was required to take place.

(2) The quorum court shall withhold from a fire department that is the subject of notification under this subsection (e) the fire department's apportionment of distributions from the Fire Protection Premium Tax Fund under § 14-284-403 until the fire department completes the inspection and delivers the report to the superintendent.

(3) If the required inspection is subsequently performed, the fire department shall file the report required by subsection (b) of this section with the superintendent and the State Fire Marshal Enforcement Section of the Department of Arkansas State Police.

(4)(A) Immediately upon receipt of the required report from the fire department, the superintendent will notify the quorum court that the required report has been received.

(B) Upon receipt of the superintendent's notification to the quorum court, the quorum court shall disburse any Fire Protection Premium Tax Fund apportionment previously withheld due to the fire department's ineligibility under this section.

(f) The chief executive officer of the fire department may inspect any work performed by or on behalf of the school or school district to correct deficiencies noted in the inspection report.

(g) The chief executive officer of the fire department shall notify the State Fire Marshal Enforcement Section of the Department of Arkansas State Police and the Department of Education if:

(1) The chief executive officer of the fire department does not receive the superintendent's report required by subsection (d) of this section, within seven (7) days of the date the report was due; or

(2) The school district does not correct all deficiencies noted in the inspection report by the completion date indicated in the superintendent's report.

(h)(1) Any person who intentionally violates this section is subject to a fine not to exceed one hundred dollars (\$100) per violation.

(2) The failure of a public school superintendent to respond as provided in subsection (d) of this section to correct the deficiencies noted in an inspection report is an indicator of facilities distress under § 6-21-811.

History. Acts 1987, No. 152, §§ 1, 2; 1989, No. 411, § 1; 1995, No. 1296, § 28; 2005, No. 1994, § 68; 2007, No. 538, § 1.

Amendments. The 2005 amendment substituted “violation” for “misdemeanor” in (b).

The 2007 amendment redesignated former (a)(3), (a)(4), (a)(5), (a)(6), and (b) as present (b), (c), (d)(1), (d)(2)(A), and (h)(1), respectively; added (d)(3), (e), (f),

(g), and (h)(2); substituted “for the school district where the public school building is located with ten (10) calendar days” for “within seven (7) calendar days” in present (b); rewrote (d)(2)(A); and in (h)(1), substituted “is subject” for “shall be guilty of a violation and subject” and added “per violation.”

Cross References. State Fire Prevention Commission, § 20-22-201 et seq.

6-21-107. Official computer use policy.

(a) The board of directors of each school district in this state shall develop and adopt a written policy concerning student and staff use of computers owned by the school district. The written policy shall state that a system to prevent computer users from accessing material harmful to minors shall be established and maintained for all public access computers in the school district. The policy shall be implemented by August 1, 2001.

(b) The written policy shall include provisions for administration of punishment of students for violations of the policy with stiffer penalties for repeat offenders, and the same shall be incorporated into the school district’s written student discipline policy.

(c) Students shall sign a computer-use agreement form outlining proper and improper use of public access computers prior to being allowed to access the computer equipment.

(d) For purposes of this section:

(1) “Harmful to minors” has the same meaning as prescribed in § 5-68-501; and

(2) “Public access computer” means a computer that:

(A) Is located in a public school or public library;

(B) Is accessible by a minor; and

(C) Is connected to any computer communication system such as, but not limited to, what is commonly known as the Internet.

History. Acts 1997, No. 801, § 1; 2001, No. 912, § 1.

Cross References. Public library computer use policy, § 13-2-103.

6-21-108. School districts authorized to own and convey real property — Donation of property for educational purposes only.

(a) In addition to the authority of school districts under § 6-13-620 to have the care and custody of the schoolhouse, grounds, and other property belonging to the school district, the board of directors for any Arkansas school district shall be authorized and empowered to acquire and hold real estate, tenements, hereditaments, and other real property as is necessary and proper for the purposes of the education of pupils of the school district and the administration of the schools of the school district.

(b)(1) If the board of directors for a school district determines that any real estate owned or controlled by the school district is not required for the present or anticipated future needs of the school district and that the donation thereof would serve a beneficial educational service for the pupils of the school district, then the school district is also empowered and authorized to donate property or any part thereof to a publicly supported institution of higher education, a technical institute, a community college, a not-for-profit organization, or any entity thereof for any of the following limited purposes:

(A) Having the real property improved, upgraded, rehabilitated, or enlarged by the donee;

(B) Providing a publicly supported institution of higher education or a technical institute or community college with the donated property in which to hold classes for students who are from the school district or to educate pupils from within the donating school district even if students from outside the school district might also benefit; or

(C) Providing community programs, social enrichment programs, or after-school programs for students who are from the school district or educating pupils from within the donating school district even if other persons in the community or students from outside the school district might also benefit.

(2) Furthermore, school districts may donate the fee simple title and absolute interest, without any reservations or restrictions, in and to all real property or any part of the property to the publicly supported institution of higher learning or community college if this property was previously conveyed or otherwise transferred by the institution or college to the school district without cost.

(c) The execution of all contracts and conveyances and lease contracts shall be performed by the president and confirmed by the secretary of the school board of directors when authorized by a resolution in writing and approved by a majority vote of the school board of directors.

(d)(1) If the school district donates real property to an entity under this section, then the school district shall have the right of first refusal to reacquire the real property if the entity decides to sell or otherwise dispose of the real property.

(2) The school district shall not be required to compensate the entity for any improvements to real property reacquired under this subsection.

History. Acts 1999, No. 1531, § 1; 2005, No. 2260, § 2.

Amendments. The 2005 amendment, in (b)(1), substituted “a technical institute, a” for “or a vocational technical or” and inserted “a not-for-profit organiza-

tion”; substituted “technical institute” for “vocational technical” in (b)(1)(B); added (b)(1)(C); deleted former (b)(2); redesignated former (b)(3) as present (b)(2); added (d); and made minor stylistic changes.

6-21-109. Rules governing public works projects.

(a) The State Board of Education, after consulting with the Arkansas Building Authority and any other entities, shall establish rules applicable to public educational entities for all public works projects when the public educational entity uses its own employees or acts as a general contractor.

(b)(1) As used in this section, “public educational entities” means Arkansas public school districts, public charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(2) “Public educational entities” does not include institutions of higher education.

History. Acts 2001, No. 1204, § 1; 2007, No. 186, § 1; 2007, No. 617, § 25.

Amendments. The 2007 amendment by No. 186 substituted “Rules” for “Rules and regulations” in the section heading and in (a); and substituted “Arkansas

Building Authority” for “Arkansas State Building Services” in (a).

The 2007 amendment by No. 617 substituted “education service cooperatives” for “educational cooperatives” in (b)(1).

6-21-110. Rules and regulations governing disposition of school property.

(a)(1) As used in this section, “immediate family member” means an individual’s spouse, children of the individual or spouse, a child’s spouse, parents of the individual or the spouse, brothers and sisters of the individual, anyone living or residing in the same residence or household with the individual or the spouse, and anyone acting or serving as an agent of the individual.

(2) As used in this section, “public educational entities” means Arkansas public school districts, public charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities. “Public educational entities” does not include institutions of higher education.

(b) It is hereby declared against public policy and prohibited for any public educational entity to give, donate, or transfer without adequate market value consideration any public property to administrators, board members, or employees of the public educational entity, or immediate family members of any of these individuals.

(c) Public educational entities are prohibited from giving public property having a value of over one hundred dollars (\$100) to leaving or retiring board members, administrators, employees, or members of their immediate family.

(d) Unless specifically mandated by law or court order, public educational entities are prohibited from retroactively raising the salary, granting stipends, or providing other compensation for an administrator beyond the current fiscal year.

(e) The State Board of Education shall establish rules and regulations consistent with the provisions of this section regarding the disposition of public property by public educational entities.

History. Acts 2001, No. 1224, § 1; substituted “education service cooperatives” for “educational cooperatives” in 2007, No. 617, § 26.

Amendments. The 2007 amendment (a)(2).

6-21-111. Definitions.

(a) As used in this section:

(1) “Harmful to minors” means that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:

(A) The average person eighteen (18) years of age or older applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;

(B) The average person eighteen (18) years of age or older applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

(C) The material or performance lacks serious literary, scientific, medical, artistic, or political value for minors; and

(2) “Public access computer” means a computer that:

(A) Is located in a public school;

(B) Is frequently or regularly used directly by a minor; and

(C) Is connected to any computer communication system.

(b) A public school that provides a public access computer shall equip the computer with technology that seeks to prevent minors from gaining access to material that is harmful to minors or obtain Internet connectivity from an Internet service provider that provides filter services to limit access to material that is harmful to minors. Standards and rules for the enforcement of this subsection shall be prescribed by the State Board of Education.

(c) A school board of directors by a majority vote and after an opportunity for a notice and comment period of at least thirty (30)

calendar days may vote to exclude the public schools under its authority from the provisions of subsection (b) of this section.

History. Acts 2001, No. 1533, §§ 1, 2. § 1, codified as subsection (a) of this section.
A.C.R.C. Notes. Acts 2001, No. 1533, is also codified as § 13-2-104(a).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-21-112. Division of Public School Academic Facilities and Transportation.

(a) In order to ensure that substantially equal access to adequate educational facilities and educational equipment is provided for all public school students in Arkansas, the General Assembly finds that a division of public school academic facilities and transportation should be established under the direct supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) There is created the Division of Public School Academic Facilities and Transportation, which shall operate under the supervision of the commission.

(c)(1) The commission shall select an individual to serve as the Director of the Division of Public School Academic Facilities and Transportation. The Director of the Division of Public School Academic Facilities and Transportation shall serve at the pleasure of the commission.

(2) The person selected as the Director of the Division of Public School Academic Facilities and Transportation shall:

(A) Be a person of good moral character and qualified technically and by experience to direct the work of the division;

(B) Have significant knowledge and experience in construction; and

(C) Have ten (10) years' experience in an administrative, supervisory, or management position.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the commission shall be eligible to serve as the Director of the Division of Public School Academic Facilities and Transportation.

(d) The Director of the Division of Public School Academic Facilities and Transportation, with guidance and approval from the commission, shall be responsible for hiring all employees of the division.

(e)(1) The Director of the Department of Information Systems shall assign one (1) individual to serve as a technology liaison to the division.

(2) The Director of the Arkansas Building Authority shall assign one (1) individual from the staff of the Arkansas Building Authority to serve as a physical plant liaison to the division.

(f) The division shall:

(1) Provide information or assistance to the Academic Facilities Oversight Committee as requested;

(2) Use any recommendation or assessments of the oversight committee or the General Assembly as a basis for establishing the policies and procedures of the division;

(3) Develop and implement the Arkansas Public School Academic Facilities Program Act as established in § 6-21-801 et seq.;

(4) Administer the various programs of state financial participation in support of local academic facilities;

(5) Develop and implement an ongoing uniform process for collecting, inventorying, and updating information on the state of condition of all public school academic facilities in the state;

(6) Develop a facility cost index that provides a methodology for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school academic facility with a facility containing the same amount of square footage;

(7) Conduct unannounced random on-site inspections of public school academic facilities;

(8) Enforce through planning minimum standards for accessibility to public school academic facilities and programs for individuals with disabilities;

(9) Develop guidelines for competitive bidding, competitive negotiation, and other methods of procurement for public school academic facilities projects;

(10) Develop incentive programs to reward school districts for innovative, effective, and efficient use of local and state resources with regard to public school academic facilities;

(11) Review applicable statutes, rules, and regulations for conflicts with or omission of energy-related content;

(12) Administer the school transportation program in the various school districts of Arkansas, including without limitation, the training of school bus drivers and inspection of school buses, as defined in § 6-19-110;

(13) Keep records showing a description of each school district in the state, a map showing the school districts with current and accurate boundaries, the location of the academic facilities, and the electoral zones, if any, into which each school district has been divided;

(14) Report by October 1 of each year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the state of condition of academic facilities statewide using the following building and design systems:

(A)(i) Site land and all improvements to the site, such as grading, drainage, drives, parking areas, walks, landscaping, and playgrounds.

(ii) Site improvements shall not include permanent or temporary buildings;

(B) Roofing;

- (C) Exterior;
- (D) Structure;
- (E) Interior;
- (F) Heating, ventilation, and air conditioning;
- (G) Plumbing and water supply;
- (H) Electrical;
- (I) Technology;
- (J) Fire and safety;
- (K) Specialty items, including equipment and furnishings; and
- (L) Space utilization;

(15) Report by October 1 of each even-numbered year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the state academic facilities master plan;

(16) Maintain a public access website dedicated to public school academic facilities; and

(17) Develop and implement a statewide facilities needs priority list that provides a methodology for:

(A) Prioritization of state school district facility needs; and

(B) Comparing the school district advancement of improving facility conditions with school district master plans.

(g) The division may:

(1) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program over which the division has authority;

(2)(A) Accept all donations, grants of money, equipment, supplies, materials, and services conditional or otherwise from private sources, from municipal and county governments, from the state, and from the federal government.

(B) The division may use any of its resources to further the division's purposes and functions; and

(3) Make and enter into all contracts, commitments, and agreements and execute all instruments necessary or incidental to the performance of its duties and powers under this section, the Arkansas Public School Academic Facilities Program, or any other related program over which the division has authority.

(h) The Department of Education shall coordinate and share certain administrative, custodial, legal, internal finance, and other necessary personnel and responsibilities to effectuate the daily operations of the division and the Department of Education.

History. Acts 2003 (2nd Ex. Sess.), No. 90, § 2; 2005, No. 1327, § 1; 2007, No. 751, § 2; 2007, No. 989, § 16; 2007, No. 1580, § 1.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 90, § 3, provided:

“(a)(1) Following the implementation of this act, the Department of Education shall realign.

“(2) The purpose of the realignment shall be for the department and the Division of Public School Accountability and

the Division of Public School Academic Facilities to maximize their role as the active senior partners with the schools and to prepare to intervene immediately rather than after the school or school district fails.

“(3)(A) To realign, the department shall form a taskforce consisting of the Director of the Division of Public School Accountability, the Director of the Division of Public School Academic Facilities, key department personnel, school district personnel, teachers, and other stakeholders to conduct a study of the department’s and the divisions’ delivery system and to make recommendations for the department’s realignment.

“(B) As part of the study, the taskforce shall:

“(i) Review the functions, and responsibilities of the department, the Division of Public School Accountability, and the Division of Public School Academic Facilities to align the personnel according to these functions and responsibilities to ensure each employee is qualified and capable of performing his or her duties according to the functions and responsibilities as defined by the taskforce; and

“(ii) (a) Conduct a comprehensive review of the salaries of individuals necessary to fulfill the department’s functions as defined by the taskforce, responsibilities, and constitutional mission of the state.

“(b) This study shall include a review of equity adjustments necessary to recognize differences in responsibility, performance, or seniority.

“(C) Qualifications and salary levels of the department’s staff shall be comparable to those of similar employees in school districts or in other state education agencies.

“(b) Following the work of the taskforce under this section, the department shall present proposed changes in staff grades and salaries to the Joint Budget Committee at the earliest opportunity for the

purpose of preparing suggested legislation to be approved by the General Assembly.

“(c) The Director of the Department of Education may transfer any unclassified position to the Division of Public School Accountability or the Division of Public School Academic Facilities if the director of the division agrees that the position is an appropriate position to be in the division and approves the transfer.

“(d) The restructuring of the department shall be conducted in a manner that will provide sufficient personnel within the department to provide administrative and technological support to the Division of Public School Accountability and the Division of Public School Academic Facilities at a level that is sufficient for the divisions to carry out the duties set forth in this act.

“(e) In the restructuring of the department the director may require the department, the Division of Public School Academic Facilities, and the Division of Public School Accountability to coordinate and share certain administrative, custodial, legal, internal finance, and other necessary personnel to effectuate the daily operations of those divisions and the department.”

Amendments. The 2005 amendment rewrote this section.

The 2007 amendment by No. 751, in (e)(1), substituted “Director of the Department of Information Systems” for “Executive Chief Information Officer” and deleted “from the staff of the Office of Information Technology” following “individual.”

The 2007 amendment by No. 989 substituted “Enforce through planning” for “Develop” in (f)(8); substituted “school buses, as defined in § 6-19-110” for “school buses or other vehicles used in transporting public school students” in present (f)(12); and added present (f)(17).

The 2007 amendment by No. 1580 inserted present (f)(11), and redesignated the remaining subdivisions accordingly.

6-21-113. Advisory Committee on Public School Academic Facilities.

(a) To assist the Division of Public School Academic Facilities and Transportation, there is established the Advisory Committee on Public School Academic Facilities to be composed of the following members,

who must be willing to devote adequate time to the work of the committee:

(1) The Director of the Division of Public School Academic Facilities and Transportation or the director's designee, who shall also serve as secretary to the advisory committee;

(2) Two (2) persons who are licensed building contractors with at least five (5) years of experience in public school construction;

(3) One (1) person who is a registered architect with at least five (5) years of experience in public school design selected from a list of no fewer than three (3) names of registered architects with at least five (5) years of experience in public school design submitted by the Arkansas Chapter of the American Institute of Architects;

(4) One (1) person who is a licensed or registered engineer with at least five (5) years of experience in public school construction;

(5) One (1) person who is knowledgeable in educational technology applications and strategies;

(6) Two (2) persons selected from a list of six (6) names submitted by the Arkansas Association of Educational Administrators;

(7) One (1) person selected from a list of three (3) names submitted by the Arkansas Education Association; and

(8) One (1) person selected from a list of three (3) names submitted by the Arkansas School Boards Association.

(b)(1) All members shall serve four-year terms. All terms shall expire on April 1.

(2) Membership is limited to two (2) terms.

(c) Nonstate employee committee members shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

History. Acts 2005, No. 1424, § 2.

6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.

(a) There is created the Commission for Arkansas Public School Academic Facilities and Transportation, which shall consist of the following:

(1) The Director of the Department of Finance and Administration;

(2) The Commissioner of Education; and

(3) The President of the Arkansas Development Finance Authority.

(b)(1) The members of the commission shall meet and organize immediately after March 29, 2005. The Commissioner of Education shall be the chair of the commission.

(2)(A) The commission shall meet at least quarterly and upon the call of the chair.

(B)(i) The secretary of the commission shall be an employee of the Division of Public School Academic Facilities and Transportation assigned to the commission by the chair of the commission.

(ii) The secretary shall give members advance notice of the agenda of each meeting.

(3)(A) Two (2) members of the commission shall constitute a quorum for the purpose of transacting business.

(B) A quorum is required for any action of the commission.

(4) Members of the commission shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

(c) Staff support shall be provided by appropriate personnel of the Department of Finance and Administration, the Department of Education, the Arkansas Development Finance Authority, and the division.

(d) The commission shall:

(1) Oversee the operations of the division; and

(2)(A) Promulgate rules in consultation with the Insurance Commissioner to establish property, boiler and machinery, and extended coverage insurance requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a school district.

(B) The rules promulgated by the commission under subdivision (d)(2)(A) of this section shall:

(i) Attempt to provide the most cost-efficient manner for protecting each school district from loss of or damage to the school district's buildings, structures, facilities, and business personal property;

(ii) Require property, boiler and machinery, and extended coverage insurers to have a minimum A.M. Best rating;

(iii) Establish bidding requirements and procedures, if applicable to any insurance coverage; and

(iv)(a) Be binding upon each school district for any placement or renewal of insurance coverage after June 1, 2007.

(b) The state's financial participation under the Academic Facilities Partnership Program provided by § 6-20-2507 or the Academic Facilities Catastrophic Program provided by § 6-20-2508 may be withheld or reduced by the commission if a school district does not comply with the rules promulgated under subdivision (d)(2)(A) of this section.

(e) The commission may:

(1) Perform any act and provide for the performance of any function necessary or desirable to carry out the purposes of the Arkansas Public School Academic Facilities Program and any other related program;

(2)(A) Adopt, amend, and rescind rules as necessary or desirable for the administration of the Arkansas Public School Academic Facilities Program and any other related program.

(B) The commission shall report to the Subcommittee on Administrative Rules and Regulations of the Legislative Council in a manner consistent with § 10-3-309 on the adoption, amendment, rescission, or repeal of any proposed rule related to the administration of the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq., or any other related program;

(3) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program; and

(4) Study and promulgate rules concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to:

(i) Earth movement; or

(ii) The operation of a school district's motor vehicles and buses; and

(B) The appropriate amount of insurance coverage under this subdivision (e)(4).

(f) The commission shall report annually on its activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Interim Committee on Education, the Senate Interim Committee on Education, the State Board of Education, and the Academic Facilities Oversight Committee.

History. Acts 2005, No. 1327, § 2; 2006 33 rewrote (e)(2)(B); and deleted former (1st Ex. Sess.), No. 32, § 2; 2006 (1st Ex. Sess.), No. 33, § 2; 2007, No. 625, § 1. (e)(2)(C) and (g).

Amendments. The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 32 and (e)(4); and made related changes.

6-21-115. Name of division — Operation — Director.

(a) The division established under § 6-21-112 shall be known as the Division of Public School Academic Facilities and Transportation of the Department of Education.

(b)(1) The division shall operate under the direction, control, and supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(2) The division shall not operate under the direction, control, and supervision of the State Board of Education.

(c) The Director of the Division of Public School Academic Facilities and Transportation shall be selected by the commission and shall serve at the pleasure of the commission.

History. Acts 2005, No. 1672, § 5; 2006 present (a), (b) and (c); rewrote present (1st Ex. Sess.), No. 32, § 3; 2006 (1st Ex. Sess.), No. 33, § 3. (b); and substituted "commission" for "commissioner" twice in (c).

Amendments. The 2006 (1st Ex. Sess.) amendment by identical acts Nos. 32 and 33 redesignated former (1), (2) and (3) as **Effective Dates.** Acts 2005, No. 1672, § 5, effective by its own terms July 1, 2007.

6-21-116. Approval of building plans.

(a) All building plans for new public school facilities may include a tornado shelter or a designated reinforced area designed to withstand tornadoes and high-speed winds.

- (b)(1) School districts shall be required to generate funds to meet the requirements of subsection (a) of this section.
- (2) School districts may apply for grant funds to assist in the construction of a tornado shelter or a designated reinforced area in new public school facilities.
- (c) The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules to implement the requirements of this section.

History. Acts 2007, No. 1584, § 1.

SUBCHAPTER 2 — EQUAL ACCESS ACT

SECTION.	SECTION.
6-21-201. Title.	6-21-205. Limited open forum.
6-21-202. Definitions.	6-21-206. Fair opportunity.
6-21-203. Construction.	
6-21-204. Prohibition of denial of equal access.	

6-21-201. Title.

This subchapter may be cited as the “Equal Access Act”.

History. Acts 1985, No. 792, § 1; A.S.A. 1947, § 80-1918.

6-21-202. Definitions.

As used in this subchapter:

- (1) “Meeting” includes those activities of student groups that are permitted under a school’s limited open forum and are not directly related to the school curriculum, including, but not limited to, student-planned graduation ceremonies and student-planned pregame activities at sports events;
- (2) “Noninstructional time” means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends;
- (3) “School endorsement” means that a school official or employee approves or selects a speaker or approves, selects, or writes any content of the speech. Student-initiated meetings limited to student speech with content-neutral guidelines shall not constitute school endorsement;
- (4) “Secondary school” means a public school that provides secondary education as determined by law; and
- (5) “Sponsorship” includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

History. Acts 1985, No. 792, § 3; A.S.A. 1947, § 80-1920; Acts 1993, No. 988, § 1.

6-21-203. Construction.

(a) Nothing in this subchapter shall be construed to authorize the State of Arkansas or a political subdivision thereof:

(1) To influence the form or content of any prayer or other religious activity;

(2) To require any person to participate in prayer or other religious activity;

(3) To expend public funds beyond the incidental cost of providing the space for student-initiated meetings;

(4) To compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;

(5) To sanction meetings that are otherwise unlawful;

(6) To limit the rights of groups of students which are not of a specified numerical size; or

(7) To abridge the constitutional rights of any person.

(b) Nothing in this subchapter shall be construed to limit the authority of the school, its agents, or its employees to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

History. Acts 1985, No. 792, § 2; A.S.A. 1947, § 80-1919.

RESEARCH REFERENCES

Ark. L. Rev. Note, The Establishment Clause and Prayers in Public High School Graduations: Jones v. Clear Creek Independent School District, 47 Ark. L. Rev. 653.

6-21-204. Prohibition of denial of equal access.

(a) It shall be unlawful for any public secondary school that receives state financial assistance and that has a limited open forum to deny equal access or a fair opportunity to, or to discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at the meeting.

(b) Each school district may develop a procedure to notify, in writing, all students and their parents of the provisions of this subchapter and to document the receipt of that notice.

History. Acts 1985, No. 792, § 2; A.S.A. 1947, § 80-1919; Acts 1993, No. 988, § 2.

6-21-205. Limited open forum.

A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one (1) or more noncurriculum-related student groups to meet on school premises during noninstructional time.

History. Acts 1985, No. 792, § 2; A.S.A. 1947, § 80-1919.

6-21-206. Fair opportunity.

Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that:

- (1) The meeting is voluntary and student-initiated;
- (2) There is no sponsorship of the meeting by the school, the government, or its agents or its employees;
- (3) Employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;
- (4) The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and
- (5) Nonschool persons may not direct, conduct, control, or regularly attend activities of student groups.

History. Acts 1985, No. 792, § 2; A.S.A. 1947, § 80-1919.

SUBCHAPTER 3 — ACQUISITION OF COMMODITIES GENERALLY

SECTION.

- 6-21-301. Definitions.
- 6-21-302. Penalty.
- 6-21-303. Rules.
- 6-21-304. Manner of making purchases.

SECTION.

- 6-21-305. Exemptions from bidding requirements.
- 6-21-306. Used school bus — Defined — Purchase.

A.C.R.C. Notes. References to “this subchapter” in §§ 6-21-301 to 6-21-305 may not apply to § 6-21-306 which was enacted subsequently.

Effective Dates. Acts 1997, No. 1344, § 7: became law without the Governor’s signature. Noted Apr. 11, 1997. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the present law regarding the purchase of used school buses is too time consuming and costly for our public school districts; that this act will provide our public school districts with an efficient and timely method for purchasing used school buses; and that

this act should go into effect immediately to give our school districts the maximum flexibility in the acquisition of new school buses. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

6-21-301. Definitions.

As used in this subchapter:

(1) "Commodities" means all supplies, goods, material, equipment, machinery, facilities, personal property, and services, other than personal and professional services, purchased for or on behalf of the school district;

(2) "Open market purchases" means those purchases of commodities by any purchasing official in which competitive bidding is not required;

(3) "Purchase" means and includes not only the outright purchase of a commodity but also the acquisition of commodities under rental-purchase agreements, lease-purchase agreements, or any other type of agreements whereby the school district has an option to buy the commodity and to apply the rental payments on the purchase price thereof;

(4) "Purchase price" means the full sale or bid price of any commodity without any allowance for trade-in; and

(5) "Purchasing official" means the board of directors of any school district or a lawfully designated agent of the school district with authority to contract or make purchases on behalf of the school district.

History. Acts 1983, No. 639, § 1; A.S.A. 1947, § 80-551; Acts 1993, No. 896, § 1; 1997, No. 820, § 1.

6-21-302. Penalty.

A violation of the provisions of this subchapter shall be a Class C misdemeanor.

History. Acts 1983, No. 639, § 5; A.S.A. 1947, § 80-555.

6-21-303. Rules.

(a) The board of directors of each school district shall prescribe the method of soliciting bids and may adopt other rules governing the procurement of commodities.

(b)(1)(A) Each school district, according to its established reimbursement policy, shall provide to each prekindergarten through sixth grade teacher in each fiscal year for use by that teacher in his or her classroom or for class activities the greater of:

(i) Twenty dollars (\$20.00) per student enrolled in the teacher's class for more than fifty percent (50%) of the school day at the end of the first three (3) months of the school year; or

(ii) Five hundred dollars (\$500) for the teacher to apply toward the purchase of related commodities.

(B) The teacher shall provide to the school district a receipt documenting any purchase.

(2) The board of directors of each school district shall adopt reasonable procedures for teachers to draw from or be reimbursed from the discretionary fund pursuant to this subsection.

(c) The Department of Education may grant a waiver of the requirements of subsection (b) of this section if a school district requests a waiver and the school district is in fiscal distress.

History. Acts 1983, No. 639, § 4; A.S.A. 1947, § 80-554; Acts 2001, No. 1687, § 1; 2003, No. 756, § 1; 2005, No. 1192, § 1; 2007, No. 1573, § 61.

Amendments. The 2005 amendment, in (b)(1)(A), substituted “for more than fifty percent (50%) of the school day at the end of the first three (3) months” for “at the end of the three (3) months” and deleted “per classroom” following “five hundred dollars (\$500).”

The 2007 amendment substituted “Rules” for “Rules and regulations” in the section heading; in (a), deleted “by regulation” following “bids” and substituted “rules” for “rules and regulations”; substituted “shall provide” for “must provide” in (b)(1)(B); deleted former (b)(1)(C); substituted “may grant” for “shall have the authority to grant” in (c); and made stylistic changes.

6-21-304. Manner of making purchases.

(a)(1) All purchases of commodities by any school district, except those specifically exempted by § 6-21-305, shall be made as follows:

(A) In each instance in which the estimated purchase price shall equal or exceed ten thousand dollars (\$10,000), the commodity shall be procured by soliciting bids, provided that the purchasing official may reject all bids and may purchase the commodity by negotiating a contract. If the purchasing official, after rejecting all bids, determines that the purchase should be made by negotiation, then each responsible bidder who submitted a bid shall be notified of the determination and shall be given a reasonable opportunity to negotiate;

(B) Open market purchases may be made when the purchase price is less than ten thousand dollars (\$10,000); and

(C) No purchasing official shall parcel or split any item or items with the intent or purpose to enable the purchase to be made under a less restrictive procedure.

(2)(A) In soliciting bids for the purchase of a commodity, a school district or a person or organization acting on behalf of a school district shall not impose qualifications or specifications that unreasonably restrict competition for the purchase of a commodity.

(B)(i) As used in this subdivision (a)(2), “specifications” means a technical description or other description of the physical or functional characteristics of a commodity.

(ii) Specifications shall not include the name or identity of any specific vendor.

(3)(A) A school district shall notify in writing all actual or prospective bidders, offerors, or contractors who make a written request to the school district for notification of opportunities to bid.

(B) Notice under subdivision (a)(3)(A) of this section shall be provided in sufficient time to allow actual or prospective bidders,

offerors, or contractors to submit a bid or otherwise appropriate response.

(4)(A) Any competitive bid submitted to a school district in response to a solicitation for bids for the purchase of a commodity shall be accompanied by a form substantially similar to the following that is signed and notarized by the agent of the bidder:

“NAME OF SCHOOL DISTRICT

NAME OF COUNTY

I, _____, hereby state:

(1) I am the duly authorized agent of _____, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and state officials, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the awarding of any contract pursuant to the bid to which this statement is attached.

(2) I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of the bid.

(3) Neither the bidder nor anyone subject to the bidder’s direction or control has been a party:

(A) To any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding;

(B) To any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of the prospective contract; or

(C) In any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the awarding of a contract.

(4) I hereby guarantee that the specifications outlined in the bid shall be followed as specified and that deviations from the specifications shall occur only as part of a formal change process approved by the Board of Directors of the school district.

Signature

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public”

(B) Any person determined to have made a false statement on the form prescribed by subdivision (a)(4)(A) of this section or any bidder who acts contrary to the provisions of the form after its agent has executed the form shall be guilty of a Class C misdemeanor.

(5)(A) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a school district contract may protest to the superintendent of the school

district in accordance with procedures established by the board of directors of the school district.

(B) Protest procedures shall include, at a minimum, provisions addressing the following:

(i) The superintendent's authority to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract;

(ii) Submission of a protest in writing within seven (7) calendar days after the aggrieved person knows or should have known of the facts giving rise to the protest;

(iii) The provision of reasonable notice to all persons involved and reasonable opportunity for those persons to respond to the protest issues;

(iv) The issuance of a prompt decision in writing that states the reasons for the action taken which is provided to all interested parties;

(v) The impact of a protest on continuing with the solicitation or award of the school district contract pending the resolution of the protest; and

(vi) The award of costs with regard to successful protests.

(C) A decision on a protest under this section shall be final and conclusive.

(b)(1) The local school board of directors shall have exclusive jurisdiction for the purchase of Types A, B, C, and D school buses.

(2) The Department of Education shall have responsibility for drawing up the minimum specifications for all school buses.

(3) An advisory committee made up of ten (10) school administrators representing all sizes of schools and all areas of the state shall assist the department in drawing up specifications for school buses.

(4)(A) A local school board of directors may request the State Procurement Director to solicit bids for school buses on its behalf.

(B) If a request is made, the Office of State Procurement shall take bids from all school bus body and chassis manufacturers doing business in Arkansas.

(5) If a local school board of directors chooses to purchase school buses other than through the office, the board of directors shall forward no later than twenty (20) days after the bid award the following documents to the office:

(A) A copy of all the bid specifications;

(B) A list of invited bidders;

(C) Copies of all correspondence sent out by the school district to bidders and all correspondence received by the school district from bidders;

(D) A complete bid tabulation; and

(E) A copy of the bid award.

(c) For the purposes of this section:

(1) A "Type A school bus" is a conversion or body constructed upon a van-type compact truck or a front-section vehicle with a gross weight

rating of ten thousand pounds (10,000 lbs.) or less and designed for carrying more than ten (10) persons;

(2) A "Type B school bus" is a conversion or body constructed and installed upon a van or front-section vehicle chassis or stripped chassis with a vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. Part of the engine is beneath or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels;

(3) A "Type C school bus" is a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. All of the engine is in front of the windshield. The entrance door is behind the front wheels; and

(4) A "Type D school bus" is a body installed upon a chassis with the engine mounted in the front, midship, or rear with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. The engine may be behind the windshield and beside the driver's seat, at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

History. Acts 1983, No. 639, § 2; A.S.A. 1947, § 80-552; Acts 1987, No. 65, § 1; 1993, No. 896, § 2; 1997, No. 327, § 1; 1997, No. 820, § 2; 2005, No. 2161, § 1.

A.C.R.C. Notes. This section may be

affected by § 6-21-306.

Amendments. The 2005 amendment redesignated former (a) and (a)(1)-(3) as present (a)(1) and (a)(1)(A)-(C); and added (a)(2)-(5).

CASE NOTES

Passenger Seat Belts

Exercising authority under Ark. Const. art. XIV, § 4, the general assembly authorized the department of education to adopt regulations regarding school bus design pursuant to §§ 6-19-111(a)-(b), 6-21-304; the department's specifications, which did not mandate passenger seat belts, were required in every school bus contract in the state pursuant to § 6-19-102(e), assuring manufacturers' compliance. Legislative history touching on the issue revealed that the general assembly considered but rejected mandatory pas-

senger seat belts in school buses several times; consequently, tort claims, which were based on a school bus manufacturer's failure to provide passenger seat belts, were preempted because the manufacturer complied with state specifications governing school bus design, and the applicable statutory and regulatory framework, while silent on the issue, indicated that general assembly had affirmatively decided not to require passenger seat belts in school buses. *Price v. Thomas Built Buses*, — Ark. —, — S.W.3d —, 2007 Ark. LEXIS 414 (June 28, 2007).

6-21-305. Exemptions from bidding requirements.

(a) The following commodities may be purchased without soliciting bids:

(1)(A) Commodities in instances of an unforeseen and unavoidable emergency.

(B) Provided, no emergency purchase shall be approved by the superintendent unless a statement in writing shall be attached to the

- purchase order describing the emergency necessitating the purchase of the commodity without competitive bidding;
 - (2) Commodities available only from the federal government;
 - (3) Utility services, the rates for which are subject to regulation by a state agency or a federal regulatory agency;
 - (4) With the exception of used school buses, used equipment and machinery; and
 - (5) Commodities available only from a single source.
- (b) However, the purchasing official must determine in writing that it is not practicable to use other than the required or designated commodity or service, and a copy of this statement shall be attached to the purchase order.

History. Acts 1983, No. 639, § 3; 1985, No. 1030, § 1; A.S.A. 1947, § 80-553; Acts 1993, No. 896, § 3; 1997, No. 820, § 3.

6-21-306. Used school bus — Defined — Purchase.

- (a)(1) For the purposes of this section, a school bus becomes a used school bus two (2) years after the date of issuance of the manufacturer’s certificate of origin.
- (2) If the body of the school bus is installed by an entity other than the manufacturer of the chassis, the school bus becomes a used school bus two (2) years after the date of issuance of the manufacturer’s certificate of origin issued by the entity that installed the body on the chassis.
- (b) Notwithstanding any other law to the contrary, used school buses purchased by public school districts in this state shall not be subject to the jurisdiction of the State Procurement Director nor any competitive bidding procedures prescribed by law.

History. Acts 1997, No. 1344, §§ 1, 2.
A.C.R.C. Notes. References to “this subchapter” in §§ 6-21-301 to 6-21-305 may not apply to this section, which was enacted subsequently.

Former § 6-21-307 is now codified as § 6-21-306(b).
Publisher’s Notes. Acts 1997, No. 1344 became law without the Governor’s signature.

SUBCHAPTER 4 — FREE TEXTBOOK ACT

- SECTION.
- 6-21-401. Title.
 - 6-21-402. Definition.
 - 6-21-403. Requirements generally.
 - 6-21-404. Duties of State Board of Education generally.
 - 6-21-405. Determination of recommended instructional materials.
 - 6-21-406. Conditions for offering textbooks for adoption, sale, or exchange.
 - 6-21-407. Contracts with publishers.

- SECTION.
- 6-21-408. Exchange regulations.
 - 6-21-409. Assessment of damages for publisher’s failure to comply.
 - 6-21-410. Illegal acts involving school officials.
 - 6-21-411. [Repealed.]
 - 6-21-412. Distributions of textbooks, materials, or funds.
 - 6-21-413. Local selection committee.
 - 6-21-414 — 6-21-423. [Repealed.]

Effective Dates. Acts 1975, No. 302, § 20: approved Mar. 3, 1975. Emergency clause provided: "The General Assembly finds that the provisions of this Act are necessary to the timely and orderly selection, purchase, and distribution of textbooks and other instructional materials to be used in the public schools of the State

in the school year 1975-76; therefore, an emergency is hereby declared to exist, and this Act, being necessary for the preservation of the public peace, health and safety shall be in effect from and after its passage."

Acts 1999, No. 1078, § 92: July 1, 2000.

6-21-401. Title.

This subchapter shall be known as the "Free Textbook Act of 1975".

History. Acts 1975, No. 302, § 1; A.S.A. 1947, § 80-1701.

6-21-402. Definition.

As used in this subchapter, "instructional materials" means:

- (1) Traditional books and trade books in printed and bound form;
- (2) Activity-oriented programs that may include:
 - (A) Manipulatives;
 - (B) Hand-held calculators; or
 - (C) Other hands-on material; and
- (3)(A) Technology-based materials that require the use of electronic equipment in order to be used in the learning process.
- (B) Technology-based materials do not include the equipment required to make use of these materials.

History. Acts 1975, No. 302, § 2; A.S.A. 1947, § 80-1702; Acts 1995, No. 280, § 1; 1995, No. 605, § 1.

6-21-403. Requirements generally.

(a) Public school districts shall provide textbooks and other instructional materials for all pupils attending the public schools of this state in kindergarten through grade twelve (K-12), inclusive, in all subjects taught in those grades, without cost to the pupils.

(b) School districts may select their own textbooks or instructional materials, or school districts may select from the recommended state-approved list.

(c) Any materials purchased with state funds shall be consistent with the curriculum and educational goals established by the State Board of Education.

(d)(1) The Department of Education shall monitor to ensure that all school districts in Arkansas comply with the provisions set forth in this section. Any school district failing to provide textbooks and other instructional materials shall be reported in the annual school performance report.

(2) The state board, through the department, is authorized to promulgate rules as may be necessary to carry out the provisions of this subchapter and shall report to the members of the House Education Committee and Senate Education Committee annually any school district out of compliance by November 1, 2007, and each year thereafter.

History. Acts 1975, No. 302, §§ 2, 3; A.S.A. 1947, §§ 80-1702, 80-1703; Acts 1995, No. 280, § 2; 1995, No. 605, § 2; 2007, No. 1199, § 1; 2007, No. 1577, § 1.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 2007, No. 1577, § 1. This section was also amended by Acts 2007, No. 1199, § 1 to read as follows:

“§ 6-21-403. Requirements generally.

“(a) Public school districts shall provide textbooks and other instructional materials for all pupils attending the public schools of this state in grades kindergarten through twelve (K-12), inclusive, in all subjects taught in those grades, without cost to the pupils.

“(b) School districts may select their own textbooks or instructional materials, or districts may select from the recom-

mended state-approved list.

“(c) Any materials purchased with state funds shall be consistent with the curriculum and educational goals established by the State Board of Education.

“(d)(1) The Department of Education shall monitor public school districts to ensure compliance with this section.

“(2) The state board may promulgate rules necessary to ensure compliance with this section.

“(e) On or before November 1 of each year, the department shall report to the House and Senate Interim Committees on Education all public school districts that have not complied with this section.”

Amendments. The 2007 amendment by No. 1199 added (d) and (e).

The 2007 amendment by No. 1577 added (d).

6-21-404. Duties of State Board of Education generally.

(a) The State Board of Education is authorized and empowered to:

(1) Make rules and regulations to implement this subchapter and to provide for a statewide textbook selection committee;

(2) Require reports from school districts on the use and distribution of these items; and

(3) Do whatever else may be necessary for the general welfare of the public school textbook and instructional materials system in order to acquire the items at the lowest possible cost.

(b) The powers enumerated in this section are cumulative and not restrictive.

(c)(1) The state board shall have power to include any additional regulations in the bid and contract form that the state board deems best for the administration of this subchapter.

(2) Any regulations included in the bid and contract forms and accepted by the publisher shall be construed as a part of this subchapter.

(3) Publishers shall be required to comply with the additional regulations as if they were included in this subchapter.

(d) Publishers must sell their materials at the same price to all schools and school districts in the state and must guarantee that price for the life of a state adoption cycle.

History. Acts 1975, No. 302, § 17; 280, § 3; 1995, No. 605, § 3; 1997, No. A.S.A. 1947, § 80-1717; Acts 1995, No. 333, § 1.

6-21-405. Determination of recommended instructional materials.

(a) By March 15 of each year, the Department of Education shall prepare and distribute to school districts a recommended list of books, series of books, and other instructional materials for all subjects required by the Standards for Accreditation of Arkansas Public Schools and School Districts.

(b) School districts may elect to purchase instructional materials from the state-recommended list, or school districts may select other instructional materials.

(c) If a school district selects other instructional material not recommended by the state, the school district shall certify to the department by June of each year which instructional materials the school district wishes to purchase by state contract from the state-recommended list.

(d) If a school district selects other instructional materials not recommended by the state, the school district may purchase such materials outside any state contract.

History. Acts 1975, No. 302, § 4; 1983, 1995, No. 280, § 4; 1995, No. 605, § 4; No. 426, § 1; A.S.A. 1947, § 80-1704; Acts 1997, No. 333, § 2.

6-21-406. Conditions for offering textbooks for adoption, sale, or exchange.

Before any person, company, or corporation shall offer any school textbooks or other instructional materials used in kindergarten through grade twelve (K-12), inclusive, for adoption, sale, or exchange in the State of Arkansas, the person, company, or corporation shall comply with the following conditions:

(1)(A) The person, company, or corporation shall file a bid and contract form in the office of the Commissioner of Education showing the prices at which the publisher will agree to sell to the State of Arkansas during the contract period.

(B) When the State Board of Education accepts any or all of the textbooks or other instructional materials in the bid and contract form and so certifies in the form, the bid and contract form shall become an official contract.

(C) The state board is authorized to permit publishers to bid current wholesale prices, or the state board may require publishers to bid lowest existing contract prices at which the textbooks or other instructional materials are being sold elsewhere in the country.

(D) The state board shall certify in the call for bids whether it wants current wholesale prices or lowest contract prices.

(E) In the bid and contract form, the publisher shall certify the date on which the current wholesale prices were established and submit a list of all existing adoption bids showing such items as may

be requested by the state board on an official form furnished by the state board.

(F) At the end of each fiscal year of the contract, the publisher shall submit a certified list of all state contracts made during the fiscal year just closed on all books or other instructional materials for which the publisher has a contract in this state.

(G) The publisher shall automatically reduce prices in Arkansas whenever a contract is made at a lower price in another state after the date of the contract in Arkansas.

(H) If any publisher makes a contract on a special or state edition in another state after the date of the contract in Arkansas, the state board is authorized to require the publisher to supply the special or state edition to the schools of Arkansas at the contract price in other states.

(I) The state board is authorized to require a publisher to bid an exchange price on all basal or supplementary textbooks bids, and all the price regulations in this subchapter applying to regular contracts shall also apply to exchange prices; and

(2)(A) The person, company, or corporation shall deposit a copy of each textbook and other instructional material in printed or manuscript form in the office of the commissioner.

(B) All publishers doing business in the State of Arkansas shall maintain one (1) or more book depositories at the publisher's expense in Arkansas.

(C) All items offered for sale in Arkansas pursuant to this subchapter shall be equal in quality to those deposited in the office of the commissioner and shall meet the minimum standards and specifications set forth by the state board.

History. Acts 1975, No. 302, § 5; 1983, 1995, No. 280, § 5; 1995, No. 605, § 5; No. 426, § 2; A.S.A. 1947, § 80-1705; Acts 1999, No. 1323, § 21.

CASE NOTES

Cited: Harris v. Arkansas Book Co., 794 F.2d 358 (8th Cir. 1986).

6-21-407. Contracts with publishers.

(a) The State Board of Education shall make and execute contracts with all publishers whose books, series of books, or instructional materials have been recommended by the state.

(b)(1)(A) The state board shall determine the contract period, provided no contract period shall be for less than three (3) years nor more than five (5) years for courses subject to rapid knowledge-base changes.

(B) For courses determined by the state board to be free of rapid knowledge-base changes, the contract period may be for a maximum of ten (10) years.

(2) Contract periods for paperback books, novels, plays, and other forms of literature in a softbound cover that are part of a basal textbook program may be from one (1) to five (5) years.

(c) If during the first two (2) years of any contract, the consumer price index has increased by twelve percent (12%) or more, the state board is authorized to renegotiate with the contract holder the prices contained in the contract. The state board may grant a price increase in the last three (3) years of the contract, provided the publisher certifies that the price is no higher than the lowest contract prices the product is currently bid in any other state.

(d) The state board is authorized to renew or extend contracts for no less than one (1) year nor more than two (2) years. This provision shall be made a part of the publisher's contract, and the state board may exercise the provision by notifying the publisher no less than one (1) year prior to the expiration of the original contract.

History. Acts 1975, No. 302, § 15; A.S.A. 1947, § 80-1715; Acts 1995, No. 280, § 6; 1995, No. 605, § 6.

6-21-408. Exchange regulations.

(a) The State Board of Education shall make and enforce the necessary exchange regulations that will guarantee the payment of exchange prices and govern the exchange on basal and supplementary textbooks.

(b) The state board is authorized to incorporate any exchange provision it approves in the contract of the publisher, and the publisher shall be bound by such exchange provision of the contract as if it were a part of this subchapter.

History. Acts 1975, No. 302, § 6; A.S.A. 1947, § 80-1706; Acts 1995, No. 280, § 7; 1995, No. 605, § 7.

6-21-409. Assessment of damages for publisher's failure to comply.

(a) The State Board of Education is authorized to assess any publisher any amount of damages to the State of Arkansas for failure to comply with the terms of the publisher's contract or any published regulation of the state board, provided that the publisher has been given a hearing before the state board regarding the assessment of damages.

(b) Failure to reimburse the state within six (6) months after notice of assessment has been served on the publisher shall give the state board the right to cancel all the contracts of the publisher involved and to forbid the publisher to bid in any future adoptions for a maximum period of five (5) years from the date that damages are assessed under this section.

History. Acts 1975, No. 302, §§ 7, 8; 1707, 80-1708; Acts 1989, No. 847, § 1; 1983, No. 426, § 3; A.S.A. 1947, §§ 80- 1995, No. 280, § 8; 1995, No. 605, § 8.

6-21-410. Illegal acts involving school officials.

(a)(1) It shall be illegal for the Commissioner of Education or any other employee connected with the Department of Education, any member of any selecting committee, or any member of any school board of directors to accept or receive any money, gift, property, or favor whatsoever from any person, firm, or corporation, or any agent thereof offering for sale any item pursuant to this subchapter or from any person in any way interested in such sale.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a Class B misdemeanor.

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the Public School Fund.

(b)(1) It shall be illegal for any teacher in the public schools of Arkansas or any person connected with the public school system of Arkansas in any capacity to have any interest in the profits, proceeds, or sale of any school textbooks or other instructional materials used in the schools of Arkansas under his or her charge or with which he or she is connected in any official capacity. However, this provision shall not apply nor have any reference to royalties or fees received by a person from the sale of school books or other instructional materials of which he or she is the author.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a violation and subject to a fine of no less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200).

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the Public School Fund.

(c)(1) It shall be illegal for any person directly or indirectly to promise or offer to give or cause to be promised, offered, or given any money, good, bribe, present, reward, or any valuable thing whatsoever to the commissioner, his or her assistants, or any other employee of the Department of Education, the Director of the Department of Workforce Education, his or her assistants, or any other employee of the Department of Workforce Education, any school board members, teachers, or other persons with the intent of influencing their decisions on any questions, matters, causes, or proceedings in the selection of any textbooks or other instructional materials.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a Class B misdemeanor.

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the Public School Fund.

History. Acts 1975, No. 302, § 9; 1977, No. 645, § 1; A.S.A. 1947, § 80-1709; Acts 1995, No. 280, § 9; 1995, No. 605, § 9; 1999, No. 1078, § 82; 1999, No. 1323, § 22; 2005, No. 1994, § 386.

Amendments. The 2005 amendment substituted “guilty of a Class B misdemeanor” for “subject to a fine not to exceed

five hundred dollars (\$500) or imprisonment in the county jail for a period not to exceed six (6) months, or both” in (a)(2) and (c)(2); inserted “guilty of a violation and” in (b)(2); and made minor stylistic changes.

Effective Dates. Acts 1999, No. 1078, § 92; July 1, 2000.

6-21-411. [Repealed.]

Publisher’s Notes. This section, concerning tax exemptions for items purchased by the state for free distribution to public schools, was repealed by Acts 2003

(2nd Ex. Sess.), No. 32, § 2. The section was derived from Acts 1975, No. 302, § 11; A.S.A. 1947, § 80-1711; Acts 1995, No. 280, § 10; 1995, No. 605, § 10.

6-21-412. Distributions of textbooks, materials, or funds.

The State Board of Education shall distribute textbooks, instructional materials, or textbook funds to the school districts in the state upon any common and equitable basis adopted by the state board.

History. Acts 1975, No. 302, § 10; A.S.A. 1947, § 80-1710; Acts 1995, No. 280, § 11; 1995, No. 605, § 11.

6-21-413. Local selection committee.

Each school district shall select a textbook selection committee to be composed of a majority of certified personnel, which shall include classroom teachers.

History. Acts 1975, No. 302, § 11; A.S.A. 1947, § 80-1711; Acts 1995, No. 280, § 12; 1995, No. 605, § 12.

6-21-414 — 6-21-423. [Repealed.]

Publisher’s Notes. These sections, concerning district choice as to hardcover texts, etc.; contracts with publishers; prohibition of changes prior to contract expiration; exchange regulations; assessment of damages for publisher’s failure to comply; illegal acts involving school officials, etc.; tax exemption; expenses; distribution of textbooks, materials, or funds; and reports on adoption, distribution, and use of textbooks, were repealed by identical Acts 1995, Nos. 280 and 605, § 13. They were derived from the following sources:

6-21-414. Acts 1975, No. 302, § 13; A.S.A. 1947, § 80-1713.

6-21-415. Acts 1975, No. 302, § 9; 1977, No. 645, § 1; A.S.A. 1947, § 80-1709; Acts 1989 (3rd Ex. Sess.), No. 62, § 1.

6-21-416. Acts 1975, No. 302, § 11; A.S.A. 1947, § 80-1711.

6-21-417. Acts 1975, No. 302, § 14; A.S.A. 1947, § 80-1714.

6-21-418. Acts 1975, No. 302, § 15; A.S.A. 1947, § 80-1715.

6-21-419. Acts 1975, No. 302, § 15; A.S.A. 1947, § 80-1715.

6-21-420. Acts 1975, No. 302, § 15; A.S.A. 1947, § 80-1715.

6-21-421. Acts 1975, No. 302, § 16; A.S.A. 1947, § 80-1716.

6-21-422. Acts 1975, No. 302, § 13; A.S.A. 1947, § 80-1713.

6-21-423. Acts 1975, No. 302, § 12; A.S.A. 1947, § 80-1712.

SUBCHAPTER 5 — PUBLIC RECREATION AND PLAYGROUNDS

SECTION.

6-21-501. Authority to operate.

6-21-502. Operation or cooperation — No state aid.

6-21-503. Property used for activities — Acceptance of gifts and bequests.

SECTION.

6-21-504. [Repealed.]

6-21-505. Primary use of school facilities.

Publisher's Notes. Acts 1941, No. 291, §§ 1-5, are also codified as §§ 14-16-201 — 14-16-208, 14-54-1301 — 14-54-1308.

Cross References. Local government reserve funds, § 14-73-101 et seq.

Playgrounds and recreational facilities, § 14-16-201 et seq.

Effective Dates. Acts 1941, No. 291,

§ 6: approved Mar. 26, 1941. Emergency clause provided: "This act being necessary for the promotion of an adequate National Defense and an able-bodied citizenry, an emergency is declared to exist and the same shall take effect and be in force from and after its passage."

6-21-501. Authority to operate.

(a) Any school district or any board of directors thereof may:

(1) Operate a program of public recreation and playgrounds;

(2) Acquire, equip, and maintain land, buildings, or other recreational facilities; and

(3) Expend funds for the operation of the program pursuant to the provisions of this subchapter.

(b) However, the provisions of this subchapter shall not apply to § 17-22-201 et seq.

History. Acts 1941, No. 291, § 1; A.S.A. 1947, § 19-3601.

Publisher's Notes. The reference to

the code section in Title 17 has been updated to reflect the 1995 realphabetization of the chapters in that title.

CASE NOTES

Cited: Kendall v. Henderson, 238 Ark. 832, 384 S.W.2d 954, 384 S.W.2d 955 (1964).

6-21-502. Operation or cooperation — No state aid.

(a) Any school district or any board of directors thereof may:

(1) Operate such a program independently or cooperate in its conduct with any other public corporation, board, or body in any manner in which they mutually agree; or

(2) Delegate the operation of the program to a recreation board created by one (1) or more of them, and appropriate money voted for this purpose to that board.

(b) The right of a school district to enter into such agreements with any other public corporation, board, or body, or the right to delegate power to a board for operating a program of recreation, shall be authorized only by a majority vote cast at an annual school election. However, state aid shall not be used for recreational purposes as provided in this subchapter.

History. Acts 1941, No. 291, § 2; A.S.A. 1947, § 19-3602.

6-21-503. Property used for activities — Acceptance of gifts and bequests.

(a) Any school district or board of directors thereof given charge of the recreation program is authorized to conduct its activities on:

- (1) Property under its custody and management;
- (2) Other public property under the custody of any other public organization, body, or board, with the consent of those corporations, bodies, or boards; and
- (3) Private property, with the consent of its owners.

(b) The school district or board of directors thereof shall have authority to accept gifts and bequests for the benefit of the recreational service and to employ directors and instructors of recreational work.

History. Acts 1941, No. 291, § 3; A.S.A. 1947, § 19-3603.

6-21-504. [Repealed.]

Publisher's Notes. This section, concerning qualifications of recreational directors and instructors, was repealed by Acts 1993, No. 475, § 20. The section was derived from Acts 1941, No. 291, § 4; A.S.A. 1947, § 19-3604.

6-21-505. Primary use of school facilities.

The facilities of any school district operating a recreation program pursuant to the provisions of this subchapter shall be used primarily for the purpose of conducting the regular school curriculum and related activities, and the use of school facilities for recreational purposes authorized by this subchapter shall be secondary.

History. Acts 1941, No. 291, § 5; A.S.A. 1947, § 19-3605.

SUBCHAPTER 6 — MISCELLANEOUS OFFENSES

SECTION.

6-21-601 — 6-21-603. [Repealed.]

6-21-604. Destruction of property.

6-21-605. Injury to schoolhouse or fixtures.

SECTION.

6-21-606. Annoying conduct by trespassers.

6-21-607. Loitering on or near school grounds — Penalty.

SECTION.

6-21-608. Concealment of guns or drugs.

6-21-609. Prohibition against smoking or

use of tobacco or tobacco products.

Effective Dates. Acts 1931, No. 169, § 198; approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1933, No. 125, § 5: effective on passage.

Acts 1949, No. 433, § 2: effective on passage.

Acts 1987, No. 80, § 3: Feb. 19, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that present law prohibits school board directors from being interested in any contract or purchase made by the

district in an amount in excess of \$100.00; that the \$100.00 limitation is unreasonably low; that this Act raises the \$100.00 limitation to a more reasonable \$500.00 limitation; that such increase should occur immediately in order to avoid unreasonable burdens on both the school board directors and the school districts. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 567, § 8: Mar. 9, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that Arkansas law governing the expulsion of public school students determined to have brought a firearm or other prohibited weapon upon a school campus does not conform with current federal requirements set forth in the Gun-Free Schools Act of 1994; that failure to immediately remedy the law by legislative action will place federal funds received by the State of Arkansas in jeopardy. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1078, § 92: July 1, 2000.

6-21-601 — 6-21-603. [Repealed.]

Publisher's Notes. These sections, concerning the interests of school officials in the sale of school supplies, were repealed by Acts 2001, No. 1599, § 21. The sections were derived from the following sources:

6-21-601. Acts 1933, No. 125, §§ 1-4; Pope's Dig., §§ 11659-11662; A.S.A. 1947, §§ 80-136 — 80-139; Acts 1999, No. 1323, § 23.

6-21-602. Acts 1931, No. 169, § 27; Pope's Dig., §§ 3613, 11466; A.S.A. 1947, § 80-1902; Acts 1999, No. 1078, § 83; 1999, No. 1323, § 24.

6-21-603. Acts 1949, No. 433, § 1; 1983, No. 368, § 1; A.S.A. 1947, § 80-1909; Acts 1987, No. 80, § 1.

6-21-604. Destruction of property.

Any person who shall willfully destroy or injure any building used as a schoolhouse, or for educational purposes, or any furniture, fixtures, or apparatus thereto belonging, or who shall deface, mar, or disfigure any such building, furniture, or fixtures, by writing, cutting, painting, or pasting thereon any likeness, figure, words, or device without the consent of the teacher or other person having control of that house, furniture, or fixtures shall be fined in a sum double the value of the building, furniture, fixtures, or apparatus so destroyed or damaged and shall be fined in a sum not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense, to be recovered by civil action in any court of competent jurisdiction. The punishment provided in this section is in addition to and not in lieu of the punishment provided by other statutes for such offenses.

History. Acts 1931, No. 169, § 177; Pope's Dig., §§ 3592, 11619; A.S.A. 1947, § 80-1903.

6-21-605. Injury to schoolhouse or fixtures.

(a) To cut, write upon, deface, disfigure, or damage any part or appurtenance or enclosure of any schoolhouse shall be a violation punishable by a fine not exceeding one hundred dollars (\$100).

(b) Any fine collected under this act for injury to any schoolhouse or other school property shall be paid into the school funds of the school district where the crime was committed.

History. Acts 1931, No. 169, § 178; Pope's Dig., §§ 3593, 11620; A.S.A. 1947, § 80-1904; Acts 2005, No. 1994, § 69. substituted "violation" for "misdemeanor" in (a).

Amendments. The 2005 amendment

Meaning of "this act". See note to § 6-21-602.

6-21-606. Annoying conduct by trespassers.

Any persons who shall, by any boisterous or other conduct, disturb or annoy any public or private school in this state or any person not a student who after being notified to keep off the school grounds during the school hours by the board of directors, the superintendent, or principal teacher in charge of any such school shall continue to trespass on or go upon the grounds, whether at recess or during the sessions of the school, shall be guilty of a violation and upon conviction shall be fined in any sum not exceeding one hundred dollars (\$100), payable into the general school fund of the county.

History. Acts 1931, No. 169, § 180; Pope's Dig., § 11622; A.S.A. 1947, § 80-1906; Acts 2005, No. 1994, § 69.

Amendments. The 2005 amendment substituted "violation" for "misdemeanor."

CASE NOTES

Disturbance.

Any act, the natural consequences of which were to disturb a school and which was willfully done and which in fact did disturb a school, came within the provisions of former similar provision though the actor may have had no specific intent to disturb the school; however, one who

went to a schoolhouse for a lawful purpose was not guilty of disturbing the school where, upon being violently assailed by another, he defended himself, though his acts in his necessary self-defense may have disturbed the school. *West v. State*, 105 Ark. 175, 150 S.W. 695 (1912) (decision under prior law).

6-21-607. Loitering on or near school grounds — Penalty.

(a) Any person who shall loiter upon or near the school grounds of any public or private school during school hours or at any school-sponsored activity such as ball games, dances, and other school-sponsored activities after regular school hours without any lawful business or purpose shall be guilty of a violation and upon conviction shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250).

(b)(1) Nothing in this section shall be construed to prohibit any person who has a legitimate reason to visit any school from visiting it.

(2) If a person wishes to visit on the school grounds or in the school building, that person shall present himself or herself to the office of the school and receive both permission to visit and a pass to indicate that proper permission has been granted.

(3) Failure to request and receive permission as provided in this section shall be considered a violation of this section.

(4) As used in this section, "loiter" means to hang around or linger upon the grounds of any public school of this state or within one hundred feet (100') of the grounds of any public school in this state unless any such person is on his or her own property, walking or driving to some destination other than the school grounds, transacting some lawful business at a business establishment located near the school grounds, or has meaningful business to transact at such a school.

History. Acts 1971, No. 75, § 1; A.S.A. 1947, § 80-1915; Acts 2005, No. 1994, § 69.

Amendments. The 2005 amendment substituted "violation" for "misdemeanor" in (a).

6-21-608. Concealment of guns or drugs.

(a) As used in this section:

(1) "School official" means any public school employee receiving compensation for services from any public school system in the State of Arkansas;

(2) "School-owned property" means any property located among premises owned in whole or in part by the state or any city, district, or county within the state, including but not limited to any desk, locker, file, or other tangible property assigned to, for the use of, or on loan to any student or other person using the property for his or her own use;

(3) "School premises" means any locale upon which is situated any school building; and

(4) "Supervisor" means any person who is employed as administrator or supervisor of any public school.

(b) It shall be unlawful for any student or any other person using school-owned property to conceal any gun, drug, or any other contraband in any desk, locker, or other school-owned property in this state.

(c)(1) Any school official employed in a supervisory capacity over students or other persons on school premises, upon receipt of information that guns, drugs, or other contraband are concealed in school-owned property, shall have the authority to investigate and search any school-owned property for any drugs, guns, or other contraband that may be concealed in the school-owned property, without the necessity of obtaining a search warrant from local authorities.

(2) In the event that contraband is discovered, it shall be seized and held by the supervisor of the school premises until appropriate action, as described in subsection (d) of this section, is taken.

(d)(1) Whenever a school official discovers any illegal drugs or other contraband in any school-owned property assigned to the use of an identifiable student or any other identifiable person, appropriate action for discipline, expulsion, discharge, or prosecution shall be within the discretion of the supervisor of the premises.

(2) In the event that prosecution by local authorities is pursued, the supervisor shall release the contraband to the local prosecuting authorities to be used as evidence in court. Any evidence obtained by use of the procedure as defined in this section shall be legally admissible in any court in this state.

(e)(1) Whenever a school official discovers any gun or other firearm in any school-owned property assigned to the use of an identifiable student, that student shall be expelled for a period of not less than one (1) year; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) In the event that prosecution by local authorities is pursued, the gun or other firearm shall be released to the local prosecuting authorities to be used as evidence in court and shall be legally admissible in any court in this state.

History. Acts 1975, No. 259, §§ 1, 2; A.S.A. 1947, §§ 80-1916, 80-1917; Acts 1995, No. 567, § 4; 1995, No. 1296, § 29.

Cross References. Civil War reenactments, § 6-5-501 et seq.

RESEARCH REFERENCES

Ark. L. Notes. Strickman, Schools, Guns and the Future of the Commerce Clause, 1995 Ark. L. Notes 77.

6-21-609. Prohibition against smoking or use of tobacco or tobacco products.

- (a) Smoking or use of tobacco or products containing tobacco in any form in or on any property owned or leased by a public school district, including school buses, is prohibited.
- (b) A copy of this statute shall be posted in a conspicuous location at every entrance to each building owned or leased by a public school district and every school bus used to transport public school students.
- (c) Any person violating the provisions of this section shall be guilty of a violation and upon conviction shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

History. Acts 1987, No. 854, §§ 1, 2; 1997, No. 779, § 1; 1999, No. 1555, § 1; 2005, No. 1994, § 70.

Amendments. The 2005 amendment substituted “violation” for “misdemeanor” in (c).

SUBCHAPTER 7 — SCHOOL MOTOR VEHICLE INSURANCE ACT

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| SECTION. | SECTION. |
| 6-21-701. Title. | 6-21-707. Inspection and safety program. |
| 6-21-702. Purpose. | 6-21-708. Policy limits. |
| 6-21-703. Public School Motor Vehicle Insurance Program — Participation. | 6-21-709. Payment of claims — Subrogation — Premium rate — Excess insurance. |
| 6-21-704. Administration — Reports. | 6-21-710. Public School Insurance Trust Fund — Investments. |
| 6-21-705. Powers and duties of Insurance Commissioner. | 6-21-711. Advisory committee — Members — Duties. |
| 6-21-706. Information furnished by participants. | |

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 78, § 1, provided: “Purpose.

“(a) The purpose of this act is to provide for the administration and regulation of the Public Elementary and Secondary School Insurance Program and the School Motor Vehicle Insurance Program by the State Insurance Department and to amend various provisions of Arkansas Code §§ 6-20-1501 to 6-20-1515 and §§ 6-21-701 to 6-21-711. The responsibilities of the Department of Education for the regulation and administration of the Public Elementary and Secondary School Self-Insurance Program and the School Motor Vehicle Self-Insurance Program shall cease and its responsibilities shall be transferred to the State Insurance Department. The programs shall be known as the Public Elementary and Secondary School Insurance Program and the Public School Motor Vehicle Insurance Program.

“(b) The statutory authority, powers, duties, functions, including budgeting and purchasing, records, property, unexpended balances of appropriations, allocations, or other funds, and authorized positions but not the personnel of the Public Elementary and Secondary School Self-Insurance Program and the School Motor Vehicle Self-Insurance Program are transferred to the department. The transfer shall include each program’s prescribed powers, duties, and functions, including but not limited to rulemaking, regulation, and licensing; and the rendering of findings, orders and adjudications.

“(c) All forms for the administration and regulation of the programs, all trust agreements and arrangements, and all documents presently in use which have been previously approved by the Department of Education or the State Board of Education shall continue to be approved

until otherwise determined by the Insurance Commissioner.

“(d) The Insurance Services Division of the Department of Education is transferred to the State Insurance Department by a type two (2) transfer under § 25-2-105. The transfer shall include the authorized positions but shall not include the personnel of the division.”

Effective Dates. Acts 1991, No. 824, § 21; Mar. 27, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly that the cost of motor vehicle insurance for school districts has become almost prohibitive; that it is in the best interest of public education that a School Motor Vehicle Self-Insurance Program be established and made operative as soon as practical and that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 250, § 258; Feb. 24, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately nec-

essary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2003 (2nd Ex. Sess.), No. 78, § 26; Feb. 6, 2004. Emergency clause provided: “It is hereby found and determined by the General Assembly that assistance is necessary to minimize public school insurance costs; that the administration of public school insurance programs by the State Insurance Department will permit the Department of Education to concentrate its efforts and resources on improving public education; that this subchapter is designed to provide property and automobile liability and physical damage coverage for state public schools, educational cooperatives, and open-enrollment charter schools participating in the programs as economically as possible; and that this act should be effective immediately. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-21-701. Title.

This subchapter shall be known and may be cited as the “School Motor Vehicle Insurance Act”.

History. Acts 1991, No. 824, § 1; 2003 (2nd Ex. Sess.), No. 78, § 15.

6-21-702. Purpose.

(a) This subchapter is to establish and maintain a system of motor vehicle insurance for all public elementary and secondary schools, education cooperatives, and open-enrollment public charter schools of Arkansas electing to participate in the program from and after July 1, 1991, with the Division of Risk Management of the State Insurance Department authorized, directed, and empowered to administer the program.

(b) The State Insurance Department shall adopt such rules and regulations as may be necessary to provide for the insuring of motor vehicles owned by participating public school districts within the State of Arkansas.

History. Acts 1991, No. 824, § 2; 2003 (2nd Ex. Sess.), No. 78, § 16.

6-21-703. Public School Motor Vehicle Insurance Program — Participation.

(a) There is hereby established a Public School Motor Vehicle Insurance Program for all school motor vehicles of participating public school districts, education service cooperatives, and open-enrollment public charter schools in the State of Arkansas.

(b) Participation in the program provided for in this section shall be optional with each school district, education service cooperative, or open-enrollment public charter school.

History. Acts 1991, No. 824, §§ 3, 17; 2003 (2nd Ex. Sess.), No. 78, § 17; 2007, No. 617, § 27.

Amendments. The 2007 amendment substituted “education service” for “educational” in (a) and (b).

6-21-704. Administration — Reports.

(a) The State Insurance Department shall administer the Public School Motor Vehicle Insurance Program.

(b) The department is authorized to delegate to the Director of the Risk Management Division and staff such responsibilities as are deemed necessary in connection with the administration of this subchapter.

(c) The department shall report annually to the Governor and the General Assembly on the status of the program, including a detailed statement of investments and earnings.

History. Acts 1991, No. 824, §§ 4, 11; 2003 (2nd Ex. Sess.), No. 78, § 18.

6-21-705. Powers and duties of Insurance Commissioner.

It shall be the power and duty of the Insurance Commissioner to:

(1) Establish in the State Insurance Department a program of insurance to cover motor vehicles owned by public school districts,

education service cooperatives, and open-enrollment public charter schools. The program shall be in accordance with recognized and established insurance practices;

(2) Establish and, from time to time, modify the premium rates to be charged for various risks;

(3) Specify the form for insurance policies and other forms required for the purposes of this subchapter;

(4) Employ or contract for necessary officials, adjusters, appraisers, attorneys, and other personnel required in the administration of this subchapter;

(5) Engage in a loss control program to assist the public schools in improving and minimizing potential loss of life and property; and

(6) Perform all additional powers and duties necessary to maintain sound insurance underwriting practices recognized by good risk management.

History. Acts 1991, No. 824, § 5; 2003 (2nd Ex. Sess.), No. 78, § 19; 2007, No. 617, § 28.

Amendments. The 2007 amendment substituted “education service cooperatives” for “educational cooperatives” in (1).

6-21-706. Information furnished by participants.

(a) The Insurance Commissioner shall require each entity participating in the Public School Motor Vehicle Insurance Program to furnish to the Risk Management Division a complete list of each and every motor vehicle with full information in regard to the year, make, model, value, condition, and any other pertinent information.

(b) The commissioner shall have authority to require each participating entity to furnish a complete report of its motor vehicle insurance program, including the expiration dates of its contracts and loss histories.

History. Acts 1991, No. 824, § 6; 2003 (2nd Ex. Sess.), No. 78, § 20.

6-21-707. Inspection and safety program.

(a) The State Insurance Department is authorized to maintain an inspection and safety program designed to reduce the hazard of accidents involving motor vehicles insured under the Public School Motor Vehicle Insurance Program.

(b) The department may refuse to insure motor vehicles when it believes the vehicles to be a hazard to life or property. If the vehicle is deemed no longer insurable, thirty (30) days’ notice must be given in advance of cancellation or nonrenewal.

History. Acts 1991, No. 824, § 8; 2003 (2nd Ex. Sess.), No. 78, § 21.

6-21-708. Policy limits.

(a) Liability policies shall meet the minimum legal requirements of the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., with reference to coverage on motor vehicles.

(b) The State Insurance Department is authorized to include in the Public School Motor Vehicle Insurance Program and make available physical damage and medical payments coverage to the participating entities. Medical payments coverage shall be limited to five thousand dollars (\$5,000) per occupant of a school vehicle and shall be in addition to any other automobile medical payments coverage available to any occupant.

History. Acts 1991, No. 824, § 14; 2003 (2nd Ex. Sess.), No. 78, § 22.

6-21-709. Payment of claims — Subrogation — Premium rate — Excess insurance.

(a)(1) The Public School Insurance Trust Fund shall pay all losses and claims the insured is legally obligated to pay as specified in the contract.

(2) It shall be the duty of the State Insurance Department to coordinate, facilitate, and expedite details in connection with responsibilities outlined in the insurance contract.

(3) The department is hereby granted authority to contract for services with appraisers, adjusters, attorneys, or other professionals needed in order to expedite and facilitate the proper operation of the Public School Motor Vehicle Insurance Program.

(b) The program may require an assignment of rights of recovery to the extent that payment is made under any coverage provided by the program.

(c) If other insurance coverage exists, the program will pay its proportional share of the loss. The program's share shall be the proportion that the program's limits of liability bear to the total of all applicable limits.

(d)(1) Participating entities shall make payment of premium when demand is made as scheduled in the contract.

(2) Any school district, education service cooperative, or open-enrollment public charter school which does not pay the premium when due shall be charged a rate of interest at five percent (5%) per annum on all payments due and unpaid on the policy issued.

(3) The department may cancel insurance coverage for school districts, education service cooperatives, or open-enrollment public charter schools that fail to pay the premium due within thirty (30) days.

(4) The department shall give thirty (30) days' notice before any cancellation for nonpayment.

(e) The department's rules and regulations shall include such items as payment of premium and other pertinent items with reference to the premium rate, but its requirements shall not be more stringent than

practices of commercial companies writing similar insurance in Arkansas.

History. Acts 1991, No. 824, §§ 9, 10, 12, 15; 2003 (2nd Ex. Sess.), No. 78, § 23; 2007, No. 617, § 29; 2007, No. 738, § 5.

Amendments. The 2007 amendment by No. 617 substituted “education service cooperatives” for “educational cooperatives” in (d)(3).

The 2007 amendment by No. 738 substituted “Public School Insurance Trust Fund” for “School Vehicle Insurance Reserve Trust Fund” in (a)(1).

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-21-710. Public School Insurance Trust Fund — Investments.

(a) All funds received by the State Insurance Department as premiums, adjustments, earnings, and the like, as provided in this subchapter, shall be deposited into the Public School Insurance Trust Fund and used for the following purposes, listed in a descending order of priority:

- (1) To defray administrative costs;
- (2) To pay claims; and
- (3) To maintain the Public School Insurance Trust Fund.

(b)(1) The department is authorized to invest funds of the Public School Motor Vehicle Insurance Program.

(2) Funds of the program may be invested and reinvested as the Insurance Commissioner may determine.

(3) Moneys invested and interest earned thereon shall be administered as program funds.

(4) All moneys deposited to the Public School Insurance Trust Fund shall not be subject to any deduction, tax, levy, or any other type of assessment.

History. Acts 1991, No. 824, §§ 13, 16; 2003 (2nd Ex. Sess.), No. 78, § 24; 2007, No. 738, § 6.

A.C.R.C. Notes. Acts 2007, No. 738 § 11, provided:

“(a) All unexpended balances and appropriations from the following funds shall be transferred by the Chief Fiscal Officer of the State to the Public School Insurance Trust Fund on the effective date of this act:

“(1) The former Public Elementary and Secondary School Insurance Fund established under §§ 6-20-1510 and 19-5-908; and

“(2) The former School Vehicle Insurance Reserve Trust Fund established under §§ 6-21-710 and 19-5-981.

“(b) The fund balances shall be used by the State Insurance Department for the purposes for which the fund balances were collected.”

Acts 2007, No. 738 § 12, provided: “The Public School Insurance Trust Fund es-

tablished by this act shall be the successor fund to the Public Elementary and Secondary School Insurance Fund established under §§ 6-20-1510 and 19-5-908 and the School Vehicle Insurance Reserve Trust Fund established under §§ 6-21-710 and 19-5-981. Any funds appropriated by the 86th General Assembly from the Public Elementary and Secondary School Insurance Fund or the School Vehicle Insurance Reserve Trust Fund shall be deemed payable from the Public School Insurance Trust Fund.”

Publisher’s Notes. The Arkansas Insurance Investment Code, referred to in this section, probably refers to § 23-63-801 et seq.

Amendments. The 2007 amendment substituted “Public School Insurance Trust” for “School Vehicle Insurance Reserve Trust” in the section heading; rewrote (a); and substituted “Public School Motor Vehicle Insurance Program” for “program” in (b)(1).

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-21-711. Advisory committee — Members — Duties.

(a) There is hereby established a Public Elementary and Secondary School Insurance Program and Public School Motor Vehicle Insurance Program Advisory Committee, consisting of five (5) members as follows:

(1) The Chair and Vice Chair of the Senate Committee on Insurance and Commerce;

(2) The Chair and Vice Chair of the House Committee on Insurance and Commerce; and

(3) The Director of the Department of Finance and Administration or his or her designee.

(b) The Public School Motor Vehicle Insurance Program Advisory Committee shall meet at such times and places as it shall deem necessary for the purpose of carrying out its duties under the provisions of this subchapter.

(c) The Public School Motor Vehicle Insurance Program Advisory Committee shall select one (1) of its members as chair and such other officers as may be deemed necessary for transaction of business.

(d) A majority of the members of the Public School Motor Vehicle Insurance Program Advisory Committee shall constitute a quorum for the purpose of transacting business.

(e) All action of the Public School Motor Vehicle Insurance Program Advisory Committee shall be by a majority vote of the full membership of the Public School Motor Vehicle Insurance Program Advisory Committee.

(f) Members shall serve without pay but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(g) The Public School Motor Vehicle Insurance Program Advisory Committee shall periodically review the status of the Public School Insurance Trust Fund.

(h) The Public School Motor Vehicle Insurance Program Advisory Committee shall perform such other duties in an advisory capacity to the State Insurance Department as will expedite the operation of the programs.

(i) All proposed procedures, guidelines, and other recommendations pertaining to the programs recommended by the Public School Motor Vehicle Insurance Program Advisory Committee under this subchapter shall be advisory to the State Insurance Department.

History. Acts 1991, No. 824, § 7; 1997, No. 250, § 18; 1999, No. 391, § 21; 2003 (2nd Ex. Sess.), No. 78, § 25; 2005, No. 171, § 1; 2007, No. 738, § 7.

Amendments. The 2005 amendment substituted “There is” for “There are” in (a); substituted “Vice Chair” for “Cochair”

in (a)(1) and (a)(2); and added “or his or her designee” in (a)(3).

The 2007 amendment substituted “Public School Insurance Trust Fund” for “Public Elementary and Secondary School Insurance Fund and the School Vehicle Insurance Reserve Trust Fund” in (g).

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

SUBCHAPTER 8 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT

SECTION.

- 6-21-801. Title.
- 6-21-802. Intent.
- 6-21-803. Definitions.
- 6-21-804. Arkansas Public School Academic Facilities Program.
- 6-21-805. Academic Facilities Master Plan Program — Purpose.
- 6-21-806. Academic Facilities Master Plan Program — School districts.
- 6-21-807. Academic Facilities Master Plan Program — State plan.

SECTION.

- 6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.
- 6-21-809. Arkansas Public School Academic Facility Manual.
- 6-21-810. Public School Academic Equipment Manual.
- 6-21-811. Academic Facilities Distress Program.
- 6-21-812. Facilities distress — Student transfers.
- 6-21-813. Inspections.
- 6-21-814. Appeals.

Effective Dates. Acts 2005, No. 1426, § 7: Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that this program must be implemented immediately for the good of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 19, § 10: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must revise the public school funding formula, revise laws regarding public school facilities, provide funding for retirement increases and limit additional increases; and enact other necessary reform measures; and that this act is immediately necessary to ensure that reform measures are available to public schools for the 2005-2006 and 2006-2007 school years. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-21-801. Title.

This subchapter is known as and may be cited as the “Arkansas Public School Academic Facilities Program Act”.

History. Acts 2005, No. 1426, § 1.

6-21-802. Intent.

(a) The General Assembly recognizes that:

(1) Intelligence and virtue are the safeguards of liberty and the bulwarks of a free and good government; and

(2) Arkansas Constitution, Article 14, § 1, requires the state to ever maintain a general, suitable, and efficient system of free public schools and to adopt all suitable means to secure the advantages and opportunities of education to the people of the State of Arkansas.

(b) The General Assembly finds that because of the opinions of the Supreme Court in the matter of Lake View School District No. 25 vs. Huckabee, it is the absolute duty of the State of Arkansas to provide all public school children with an opportunity for an adequate education, which includes access to adequate academic facilities and equipment.

(c) The General Assembly finds that in order to satisfy the constitutional expectations of the Supreme Court, the state should:

(1) Provide constitutionally appropriate public school academic facilities for the education of each similarly situated child in the public schools of Arkansas, regardless of where that child resides within the state;

(2) Require all public school academic facilities to meet applicable facilities standards established in this subchapter and rules adopted by the Commission for Arkansas Public School Academic Facilities and Transportation;

(3) Provide that all public school students are educated in facilities that are suitable for teaching in accordance with:

(A) Standards for accreditation adopted by the State Board of Education;

(B) Curriculum frameworks adopted by the state board; and

(C) Technology systems, instructional materials, and related academic equipment necessary to provide the adequate education explicated in subdivisions (c)(3)(A) and (B) of this section; and

(4) Require school districts to conserve and protect their academic facilities in such a manner that the academic facilities remain adequate.

(d) It is the intent of this subchapter to provide a system of state oversight of public school academic facilities so that school districts have academic facilities that support the opportunity for each public school student in the State of Arkansas to have an adequate education.

History. Acts 2005, No. 1426, § 1.

6-21-803. Definitions.

As used in this subchapter:

(1)(A) “Academic facility” means a building or space, including related areas such as the physical plant and grounds, where public school students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter;

(2) “Annexation” means the joining of an affected school district or part of the school district with a receiving district under § 6-13-1401 et seq.;

(3) “Consolidation” means the joining of two (2) or more school districts or parts of the districts to create a new single school district under § 6-13-1401 et seq.;

(4) “Custodial activities” means routine and renovation cleaning activities related to the daily operations and upkeep of a public school facility, including related supervisory and management activities;

(5) “Facilities distress status” means a public school district determined by the Division of Public School Academic Facilities and Transportation as being in academic facilities distress status under this subchapter;

(6) “Facilities improvement plan” means a remedial plan developed by a school district for a public school or school district identified as being in academic facilities distress that supplements the school district’s facilities master plan by:

(A) Identifying specific interventions and actions the public school or school district will undertake in order to correct deficient areas of practice with regard to custodial, maintenance, repair, and renovation activities with regard to academic facilities in the school district; and

(B) Describing how the school district will remedy those areas in which the school district is experiencing facilities distress, including the designation of the time period by which the school district will correct all deficiencies that placed the school district in facilities distress status;

(7) “Facilities master plan” means a ten-year plan developed by a school district that contains:

(A) Current enrollment projections;

(B) The school district’s strategy for maintaining, repairing, renovating, and improving through new construction or otherwise the school district’s academic facilities and equipment; and

(C) Other information as required by law;

(8) “Foundation funding” means the same as in § 6-20-2303;

(9) “Local resources” means any moneys lawfully generated by a school district for the purpose of funding the school district’s share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(10) “Maintenance, repair, and renovation” means any activity or improvement to a public school facility that:

(A) Maintains, conserves, or protects the state, condition, or efficiency of the public school facility; or

(B) Brings the state, condition, or efficiency of the public school facility up to the facility’s original condition of completeness or efficiency;

(11)(A) “New construction” means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that brings the state, condition, or efficiency of the academic facility to a state of condition or efficiency better than the academic facility’s original condition of completeness or efficiency.

(B) “New construction” includes a new addition to an existing academic facility and construction of a new academic facility;

(12) “Project” means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation activities with regard to an academic facility and new construction activities with regard to an academic facility;

(13) “Public school facility” means any public school building or space, including related areas such as the physical plant and grounds, that is used for any purpose, including, without limitation:

(A) An extracurricular activity;

(B) An organized physical activity course as defined in § 6-16-137;

(C) Prekindergarten education;

(D) District administration; or

(E) Delivery of instruction to public school students that is an integral part of an adequate education as described in § 6-20-2302;

(14) “Reconstitution” means the reorganization of the administrative unit or the governing board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school board of directors, or both;

(15) "School district" means a geographic area that:

(A) Is governed by an elected board of directors that conducts the daily affairs of public schools under the supervisory authority vested in it by the General Assembly and § 6-13-101 et seq.; and

(B) Qualifies as a taxing unit for purposes of ad valorem property taxes under Arkansas Constitution, Article 14, § 3; and

(16) "Space utilization" means the number of gross square feet per student in an academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 4; 2007, No. 827, § 116.

Amendments. The 2006 (1st Ex. Sess.) amendment substituted "a public school facility" for "academic facilities" in (4); inserted "with regard to academic facilities" in (6)(A); inserted the subdivision (A) and (B) designations in (7) and made related changes; added (7)(C); substituted "a public school facility that" for "an academic facility and, if necessary, related areas, such as the physical plant and grounds, that" in the introductory language of (10); substituted "public school"

for "academic" in (10)(A) and (B); substituted "a new addition to an existing academic facility and construction of a new academic facility" for "additions to existing academic facilities and new academic facilities" in (11)(B); inserted the first occurrence of "with regard to an academic facility" in (12)(C); inserted present (13) and redesignated the remaining subdivisions accordingly; and, in (16), substituted "an academic facility" for "a public school academic facility" and inserted "Arkansas."

The 2007 amendment rewrote (15).

6-21-804. Arkansas Public School Academic Facilities Program.

(a) The Division of Public School Academic Facilities and Transportation shall develop a comprehensive Arkansas Public School Academic Facilities Program that includes the following components:

(1) An Academic Facilities Master Plan Program that establishes a process by which:

(A) Each school district develops and submits a facilities master plan for review and approval by the division; and

(B) The division develops a comprehensive state master plan for managing state financial participation in local academic facilities projects across the state;

(2) A Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual that contains uniform standards to direct custodial, maintenance, repair, and renovation activities in public school facilities;

(3) A Public School Academic Facilities Manual that contains uniform standards to guide the planning, design, and construction of new academic facilities and additions to existing academic facilities;

(4) A Public School Academic Equipment Manual that contains uniform standards for technology systems, instructional materials, and related academic equipment determined to be necessary for a public school to provide an adequate education as described in § 6-20-2302; and

(5) An Academic Facilities Distress Program to assist school districts that are unable to conserve and protect their academic facilities in accordance with this subchapter and rules adopted by the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) The commission shall promulgate rules necessary to administer the Arkansas Public School Academic Facilities Program, all its component and related programs, and the provisions of this subchapter, which shall promote the intent and purposes of this subchapter and assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities throughout the state.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 5.

Amendments. The 2006 (1st Ex. Sess.) amendment, in (a)(2), substituted “A Public School Facilities” for “An Academic Facilities” and deleted “academic” preced-

ing “facilities”; in (a)(3), substituted “Facilities” for “Facility” and deleted “public school” preceding “academic” twice; substituted “described” for “defined” in (a)(4); and inserted “Arkansas” in (a)(5).

6-21-805. Academic Facilities Master Plan Program — Purpose.

The purposes of the Academic Facilities Master Plan Program and this subchapter are to:

(1) Establish a mechanism for state supervision of school district activities impacting academic facilities and equipment;

(2) Develop and continually update information critical to identifying academic facilities needs at the local level and across the state; and

(3) Allow the state to manage state financial participation in eligible local academic facilities projects.

History. Acts 2005, No. 1426, § 1.

6-21-806. Academic Facilities Master Plan Program — School districts.

(a) The Academic Facilities Master Plan Program shall require each school district to:

(1) Develop a ten-year districtwide facilities master plan that shall be approved by the school district’s board of directors for submission to and approval by the Division of Public School Academic Facilities and Transportation;

(2) Base its facilities master plan on the provisions of the Arkansas Public School Academic Facility Manual as adopted by the Commission for Arkansas Public School Academic Facilities and Transportation, on priorities indicated by statewide assessment, on priorities established by the division statewide facility needs priority list, and on other pertinent data specific to the needs of the school district with regard to academic facilities and equipment;

(3) Present a draft of the school district’s facilities master plan in a public hearing in the same locality as the school district and take public comments;

(4) Submit evidence of the school district's insurance coverage to the division by July 1 of each even-numbered year, including coverage amounts, types of coverage, identification of buildings covered, policy renewal dates, and all riders;

(5) Submit the school district's facilities master plan with a summary of comments made at public hearing to the division by February 1 of each even-numbered year; and

(6) Submit a report to the division by February 1 of each odd-numbered year that includes a description of all projects completed in the school district since the submission of the school district's most recent facilities master plan, the school district's current enrollment projections, new or continuing needs of the school district with regard to academic facilities and equipment, and an accounting of any changes in the school district's insurance coverage from the most recent submission.

(b) A facilities master plan shall include, at a minimum, the following:

(1) A schedule of custodial activities for each public school facility used by a school district;

(2) A schedule of maintenance, repair, and renovation activities for each public school facility used by a school district. The schedule shall distinguish between work associated with academic facilities and work associated with nonacademic public school facilities;

(3) Documentation that describes preventive maintenance work for each public school facility and identifies the completion date of the work. The documentation shall distinguish between preventive maintenance work associated with academic facilities and preventive maintenance work associated with nonacademic public school facilities;

(4)(A) Annual expenditures of the school district for all custodial, maintenance, repair, and renovation activities in the school district.

(B) The section of the facilities master plan pertaining to the annual expenditures under subdivision (b)(4) of this section shall distinguish between expenditures associated with academic facilities and expenditures associated with nonacademic public school facilities;

(5) A projected replacement schedule for major building systems in each public school facility;

(6) Identification of issues with regard to public school facility and program access to individuals with disabilities and, if necessary, proposed methods for improving access;

(7)(A) Identification of committed projects within the school district that includes, as applicable, a breakdown of the portion of each project into maintenance, repair, and renovation activities and new construction activities.

(B) The portion of a committed project pertaining to maintenance, repair, and renovation activities shall identify, as applicable, maintenance, repair, and renovation activities associated with academic facilities and maintenance, repair, and renovation activities associated with nonacademic public school facilities;

(8) Annual expenditures of the school district for capital outlay;

(9) A description of planned new construction projects with cost estimates for each public school facility within the school district and needs prioritized as follows:

(A) Immediate needs that the school district intends to address within three (3) years following the submission of the facilities master plan;

(B) Short-term needs that the school district intends to address within the four (4) to six (6) years following the submission of the facilities master plan; and

(C) Long-term needs that the school district intends to address within the seven (7) to ten (10) years following the submission of the facilities master plan; and

(10) Evidence of the school district's insurance coverage, including coverage amounts, types of coverage, identification of public school facilities covered, policy renewal dates, and all riders.

(c)(1) The division shall establish procedures and timelines for a school district to submit a preliminary facilities master plan or a master plan outline to the division before the submission of the school district's final facilities master plan.

(2) The preliminary facilities master plan or master plan outline shall form the basis for a consultation meeting between representatives of the school district and members of the division.

(3) As soon as practicable after submission of the preliminary facilities master plan or master plan outline, the division shall hold the consultation meeting with the school district to:

(A) Assure understanding of the general goals of this subchapter and the criteria by which projects will be evaluated;

(B) Discuss ways the facilities master plan may be structured to meet the goals of this subchapter;

(C) Assist school districts to prepare accurate budgets and reasonable project schedules; and

(D) Provide for efficiency and productivity in the approval process for local academic facilities projects and state financial participation in local projects.

(d)(1)(A) The division shall review and approve a school district's facilities master plan no later than May 1, 2006, with regard to academic facilities projects for which a school district intends to apply for state financial participation during fiscal year 2006-2007.

(B) The division shall notify a school district no later than July 1, 2006, that the school district's application for state financial participation during fiscal year 2006-2007 in an eligible new construction project has been approved.

(2) Except as provided in subdivision (d)(1) of this section, the division shall review and approve a school district's facilities master plan no later than September 1 of each even-numbered year and shall notify a school district no later than May 1 of each odd-numbered year that the school district's application for state financial participation

during the upcoming biennium in an eligible new construction project has been approved.

(e)(1) A school district may amend its facilities master plans at any time during the ten-year cycle, specified in § 6-21-803.

(2) An amendment may be submitted out of the regular even-numbered year cycle if the school district:

(A) Has encountered:

(i) A major enrollment change;

(ii) A major curriculum change;

(iii) A major disaster; or

(iv) An unforeseen occurrence; or

(B)(i) Has begun or completed a self-funded construction project over which the division has only review authority.

(ii) An amendment submitted under subdivision (e)(2)(B)(i) of this section may be submitted in the form of an appendix to the existing school district facilities master plan.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 6; 2007, No. 989, §§ 16, 17.

Amendments. The 2006 (1st Ex. Sess.) amendment rewrote (b).

The 2007 amendment inserted “on priorities established by the division state-wide facility needs priority list” in (a)(2);

substituted “July 1 of each even-numbered year” for “July 1, 2006” in (a)(4); substituted “public school facility” for “academic facility” in (b)(5); deleted former (b)(6) and (b)(7) and redesignated the remaining subdivisions in (b) accordingly; and added (e).

6-21-807. Academic Facilities Master Plan Program — State plan.

(a) The Division of Public School Academic Facilities and Transportation shall develop a comprehensive state academic facilities master plan for managing state financial participation in local academic facilities projects across the state.

(b) The state academic facilities master plan shall include:

(1) A list of committed projects for public school academic facilities for the upcoming fiscal year categorized by program and method of state financial participation;

(2) The total estimated cost of each committed project and the estimated amount of state financial participation; and

(3) A four-year rolling forecast of planned new construction projects related to public school academic facilities.

History. Acts 2005, No. 1426, § 1.

6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.

(a) The purposes of the Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual and this section are to:

(1) Provide for the long-term conservation and protection of public school facilities;

(2) Eliminate the deterioration of existing and future public school facilities;

(3) Provide a safe and healthy environment for students, teachers, administrators, and staff of the public schools; and

(4) Provide for the efficient use of state and local funds in support of academic facilities in each school district in the state.

(b)(1) The manual shall contain standards for custodial operations related to public school facilities.

(2) Standards for custodial operations in public school facilities shall include the following:

(A) The required contents of a custodial care plan;

(B) A suggested schedule for routine care and renovation cleaning;

(C) Levels of personnel necessary to perform custodial operations;

(D) Training criteria for the use and storage of supplies and equipment, with emphasis given to chemical right-to-know, indoor air quality, and other applicable standards;

(E) Supplies and equipment necessary to perform custodial operations, including space standards for the proper storage of supplies and equipment;

(F) In-service training opportunities for custodial personnel;

(G) Designation of routine duties; and

(H) Designation of renovation cleaning duties.

(c)(1) The manual shall contain standards for maintenance, repair, and renovation activities related to public school facilities.

(2) Standards for maintenance, repair, and renovation activities in public school facilities shall include the following:

(A) The required contents of a preventive maintenance plan, which shall include guidelines for:

(i) Scheduling preventive maintenance activities for public school facilities; and

(ii) Preparing and retaining documentation that describes preventive maintenance work related to public school facilities and identifies the completion date of the work;

(B) Development and implementation of a work-request system to allow others to inform a public school's maintenance department of needs and to allow the responsible person to prioritize responses;

(C) Levels of personnel necessary to perform maintenance operations;

(D) Training criteria for maintenance personnel with regard to:

(i) School policies;

(ii) Safety procedures;

(iii) Use of specialized equipment;

(iv) Compliance with federal, state, county, and municipal laws and regulations impacting public school facilities and equipment; and

(v) Other applicable areas;

(E) In-service training opportunities for maintenance personnel;

(F) Inspection, cleaning, servicing, and repair of heating, ventilation, and air-conditioning systems;

- (G) Inspection and repair of:
 - (i) Electrical systems;
 - (ii) Hot water boilers and heaters;
 - (iii) Fire alarms;
 - (iv) Fire extinguishers and kitchen hood vent suppression systems;
 - (v) Emergency lighting and exit light fixtures;
 - (vi) Elevators and wheelchair lifts;
 - (vii) Plumbing;
 - (viii) Roofs;
 - (ix) Stairwell areas;
 - (x) Interior and exterior lighting;
 - (xi) Doors and windows;
 - (xii) Floor coverings;
 - (xiii) Masonry and concrete building exteriors;
 - (xiv) Interior and exterior finishes;
 - (xv) Kitchen equipment;
 - (xvi) Sidewalks, driveways, parking areas, and paved play areas;
- and

(xvii) Parking lots, handicap parking spaces, driveways, fire and emergency vehicle zones, and bus and car loading and unloading areas;

(H) Inspection and repair and servicing of fire sprinkler systems;

(I) Maintenance of a pest control program;

(J) Inspection of playground equipment; and

(K) Grounds maintenance.

(d)(1)(A) Each school district shall dedicate nine percent (9%) of its foundation funding exclusively to payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(B)(i) If any amount of the dedicated nine percent (9%) is unspent at the end of the school district's fiscal year, the funds shall carry over, and the school district shall transfer the remaining amount into a public school facilities escrow account.

(ii) A school district may use funds from its public school facilities escrow account in any fiscal year for payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(iii) If a school district wants to use funds from its public school facilities escrow account for new construction, the school district shall apply to the Division of Public School Academic Facilities and Transportation for its approval. If the division authorizes the release of funds from the school district's public school facilities escrow account and approves the new construction, the school district may use the funds as authorized by the division.

(2)(A) A school district is not required to use funds in its public school facilities escrow account for new construction.

(B)(i) New construction shall be funded by local resources, which may include funds in the school district's public school facilities escrow account if approved by the division.

(ii) In addition, new construction may be eligible for state financial participation.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 7.

Amendments. The 2006 (1st Ex. Sess.) amendment substituted "public school facilities" for "academic facilities" throughout this section; substituted "Public School Facilities" for "Arkansas Facilities" in the section heading and in the introductory language of (a); deleted "academic" following "public school" in (a)(1) and (2); inserted "in public school facilities" in (c)(2); in (d)(1)(A), deleted "Beginning with the 2005-2006 school year" from the

beginning, inserted "costs of" and substituted "which include related personnel costs, for public school facilities" for "and related personnel costs"; substituted "a public school facilities escrow account" for "an academic facilities escrow account to be released only upon approval by the division for use in conjunction with a local academic facilities project" in present (d)(1)(B)(i); added (d)(1)(B)(ii) and (iii); and deleted "projects" following "construction" in (d)(2)(A) and (d)(2)(B)(i) and (ii).

6-21-809. Arkansas Public School Academic Facility Manual.

(a) The Arkansas Public School Academic Facility Manual shall contain uniform standards to guide the planning, design, and construction of new public school academic facilities and additions to existing public school academic facilities.

(b) Design and construction standards shall include provisions addressing the following areas:

(1) Planning concepts related to current educational best practices, special education, workforce development, and program and design capacity;

(2) Organizational, facility, program, and service issues, including grade configuration, school size, and class size;

(3) Site selection, including guidelines about site size and site amenities, such as site access, grading, drainage, drives, parking, walks, fencing, exterior security provisions, exterior lighting, mechanical yards, electrical yards, site furnishings, play fields, playgrounds, and landscaping;

(4) Standards for size and quantity of instruction and support spaces;

(5) Program space guidelines, including necessary features, loose furnishings, and finishes related to identified programs and services;

(6) Design standards and guidelines regarding the quality of materials and systems for the following building systems:

(A) Fire and safety;

(B) Roofing;

(C) Structural;

(D) Heating, ventilation, and air conditioning;

(E) Plumbing;

(F) Electrical;

(G) Exterior;

- (H) Interior;
- (I) Technology; and
- (J) Specialties, including equipment and furnishings; and

(7) Repair and construction cost guidelines.

(c) The manual shall also include provisions addressing the following areas:

(1)(A) A process by which a school district may apply for a variance from applicable academic facility standards upon presenting evidence of:

(i) The existence of conditions that make compliance with applicable standards impractical or unreasonably burdensome; and

(ii) Other conditions determined by the Division of Public School Academic Facilities and Transportation as warranting a variance from applicable public school academic facility standards.

(B) The variance provision shall address minimum standards for academic facilities that are reasonably expected to close or be replaced within three (3) years;

(2) Review and approval of all plans and designs for major building systems related to new construction of academic facilities prior to preparation of final bid or other applicable procurement documents;

(3) Site inspections of all major building and design systems at appropriate stages of construction;

(4) Contingency plans for review and inspection by the division if appropriate state, local, or other officials are unable or unwilling to complete an appropriate plan review or site inspection;

(5) Oversight by the division of a project for which the school district does not use the services of an architect; and

(6) The short-term temporary use of premanufactured portable buildings.

(d) The division shall review and update the manual on an annual basis.

History. Acts 2005, No. 1426, § 1.

6-21-810. Public School Academic Equipment Manual.

(a) The Public School Academic Equipment Manual shall contain uniform standards for technology systems, instructional materials, and related academic equipment determined to be necessary for a public school to provide an adequate education as described in § 6-20-2302.

(b)(1) The standards for technology systems, instructional materials, and related academic equipment shall address the following areas:

- (A) Science and mathematics;
- (B) Library media center;
- (C) English and language arts;
- (D) Foreign languages;
- (E) Social studies;
- (F) Health education and physical education;
- (G) Art;

- (H) Music;
- (I) Guidance and health services; and
- (J) Workforce education.

(2) The standards shall account for variations in a school district's use of and need for technology systems, instructional materials, and related academic equipment such as size of school district, grade configuration of schools within the school district, number of course offerings available, and enrollment levels.

(3) The standards shall establish a method for creating, maintaining, and updating an inventory of public school academic equipment, including, without limitation, technology systems, instructional materials, and related academic equipment.

History. Acts 2005, No. 1426, § 1.

6-21-811. Academic Facilities Distress Program.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall identify a public school or school district as being in academic facilities distress if the Division of Public School Academic Facilities and Transportation recommends and the commission concurs that the public school or school district has engaged in actions or inactions that result in any of the following:

(1) Any act or violation determined by the division to jeopardize any academic facility used by a public school or school district, including, but not limited to:

(A) Material failure to properly maintain academic facilities in accordance with this subchapter and rules adopted by the commission;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or laws;

(C) Material violation of applicable building code provisions or law;

(D) Material failure to provide timely and accurate facilities master plans to the division;

(E) Material failure to comply with state law governing purchasing or bid requirements in relation to academic facilities projects;

(F) Material default on any school district debt obligation; or

(G) Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the division and the approved school district's facilities master plan; and

(2) Any other condition of an academic facility or facilities in a public school or school district that is determined by the division to have a detrimental impact on educational services provided by that public school or school district.

(b) The division shall provide written notice, via certified mail, return receipt requested, to the president of the school board of directors and the superintendent of the public school or school district identified as being in facilities distress.

(c)(1) A public school or school district identified as being in facilities distress shall develop a facilities improvement plan within thirty (30) days from the date of receipt of the notice and promptly submit the facilities improvement plan to the division for review and approval.

(2) A public school or school district shall review and revise its facilities improvement plan on a periodic basis as determined by the division and submit the updated facilities improvement plan to the division in order for the division to determine whether the public school or school district is correcting its deficient areas of practice regarding academic facilities.

(3) A school district shall use facilities improvement plans as necessary to supplement and update its facilities master plan.

(d)(1) Every two (2) years beginning February 1, 2009, the division shall determine whether the progress of each school district complies with the school district's facilities master plan and shall notify the school district of any noncompliance.

(2) Beginning on February 1, 2008, and each biennium thereafter, the division shall review the applications made for the Academic Facilities Partnership Program established under § 6-20-2507, to identify any school district that did not apply for state funding for necessary facilities to meet adequacy requirements and shall notify the school district of any deficiencies.

(3) Within thirty (30) days of receiving the notice provided under subdivision (d)(1) or (d)(2) of this section, the school district shall submit a facilities improvement plan to the division for its review and approval that states how the school district will address the noncompliance issues contained in the notice.

(4) If the division does not approve the facilities improvement plan submitted by the school district, it shall identify the school district as being in facilities distress.

(5) A school district may appeal the decision of the division under this subsection (d) to the commission pursuant to the procedures established by the commission;

(e)(1)(A) Within ten (10) days of a school district's failure to pass a millage required to fulfill its obligations under the school district's facilities master plan, the division shall provide written notice to the school district of the date, time, and place for a conference with the school district at which the division will:

(i) Determine whether as a result of the failed millage there are facilities issues relating to:

(a) Immediate repairs under § 6-20-2504(b)(4);

(b) The presence and number of suitability needs of public school academic facilities, which shall be defined by rule; or

(c) Immediate need for academic facilities to meet student growth; and

(ii) Thoroughly discuss and explain the sanctions and requirements that are available to the commission if the school district is identified as being in facilities distress under this section and § 6-21-812.

(B) The written notice shall be provided via certified mail to the president of the school board of directors and the superintendent of the school district.

(C) The commission shall establish rules for the implementation of this subdivision (e)(1).

(2)(A) If the commission determines that there are immediate repairs, growth, or suitability issues that require expedited attention, the commission may direct the school district to conduct a special election to vote on a millage increase.

(B)(i) The division and the school district shall agree upon the issues to be submitted for a vote in the special election.

(ii) The special election may not include any issues other than the issues that are mutually agreed upon.

(C) The special election shall be held on a date that is:

(i) Mutually agreed upon by the division and the school district; and

(ii) Not later than seven (7) months from the date of the election at which the millage failed unless it is necessary to extend the date beyond seven (7) months because of restrictions on the number of elections that may be held within a calendar year.

(D) If within ninety (90) days from the notice provided to the school district under subdivision (e)(1)(A) of this section the school district has not set an election date, the division shall identify the school district as being in facilities distress.

(E)(i) If the school district is able to finance the immediate repairs, growth, and suitability improvements without the necessity of a special election on increasing its millage, the school district may enter into an agreement with the division to fund its improvements separately, which shall include an implementation timeframe.

(ii) The division shall identify the school district as being in facilities distress for failure to implement the agreed upon plan for immediate repairs, growth, and suitability improvements within the timeframe specified in the agreement.

(f) When a school district is identified by the commission to be in facilities distress, the division may with the approval of the commission:

(1)(A) Provide on-site technical evaluation and assistance and make recommendations to the school district superintendent regarding the care and maintenance of any academic facility in the school district.

(B) Any school district identified as being in facilities distress status shall accept on-site technical evaluation and assistance from the division.

(C) The recommendations of the division are binding on the school district, the superintendent, and the school board of directors;

(2) Require the superintendent to relinquish all administrative authority with respect to the school district;

(3)(A) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Commissioner of Education, or his or her designee.

(B) The division may direct the school district to compensate from school district funds the individual appointed to operate the school district;

(4) Suspend or remove any or all members of the current board of directors and call for the election of a new school board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(5) Require the school district to operate without a local school board of directors under the supervision of the local superintendent;

(6) Require the school district to operate without a local school board of directors under the supervision of an individual or panel appointed by the Commissioner of Education;

(7) Return the administration of the school district to the former board of directors or place the administration of the school district in a newly elected school board of directors;

(8) Require school district staff and employees to attend training in areas of concern for the public school or school district;

(9)(A) Require a school district to cease all expenditures related to activities not described as part of an adequate education in § 6-20-2302 and place money that would have been spent on the activities into an academic facilities escrow account to be released only upon approval by the division for use in conjunction with a local academic facilities project.

(B) School districts shall include a clause addressing this contingency in all contracts with personnel who are involved with activities not described as part of an adequate education;

(10) Notify the public school or school district in writing that the deficiencies regarding academic facilities shall be corrected within a time period designated by the division;

(11)(A) Petition the State Board of Education at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interest of students in the school district.

(B) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(C) The state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in facilities distress within two (2) consecutive school years of receipt of notice of identification of facilities distress status by the division;

(12) Correct the failure of a school district to complete its agreed plan or to pass the millage in the special election under subdivision (e)(2) of this section by contracting for and completing the necessary improvements under the agreed plan;

(13)(A) If the division recommends and the commission concurs that the academic facilities in the public school district in facilities

distress are inadequate to provide an adequate education, the state board may dissolve the school district and transfer students to public schools in other public school districts.

(B) The state board shall assign the public school district's territory, property, and debt; and

(14) Take any other action allowed by law that is deemed necessary to assist a public school or school district in removing criteria of facilities distress.

(g) No school district identified by the division as being in facilities distress may incur any debt without the prior written approval of the commission.

(h) A public school or school district in facilities distress may petition the commission for removal from facilities distress status only after the division has certified in writing that the public school or school district has corrected all criteria for being classified as in facilities distress and has complied with all division recommendations and requirements for removal from facilities distress status.

(i) The division shall submit a written evaluation on the status of each school district in facilities distress to the commission and the state board at least one (1) time every six (6) months.

(j)(1)(A) If a school district is identified as being in facilities distress and has immediate repairs, growth, or suitability improvement issues, the division, in addition to any other remedy under this section and § 6-21-812, may provide a loan to the school district to be repaid from any funds available that are not required to provide an adequate education.

(B)(i) Funds available that are not required to provide an adequate education include:

(a) Fund balances and any cash on hand that are not part of foundation funding or categorical funding under § 6-20-2305 and are not otherwise required to provide an adequate education for students in the public school district; and

(b) Revenues that are not obligated on bonds.

(ii) Funds remaining after the annual payment on a bond obligation are included in funds that are not required to provide an adequate education.

(2) The public school district shall repay the loan on the schedule determined by the division.

(k) The commission in conjunction with the Academic Facilities Oversight Committee shall:

(1) Reexamine the role and function of the State Facility Assessment of 2004;

(2) Assess the progress made by the state in the mandates of the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, No. 01-836; and

(3) Make needed changes in the implementation of the academic facilities program by modifying the commission's rules.

History. Acts 2005, No. 1426, § 1; 2007, No. 989, § 18; 2007, No. 996, § 2.

A.C.R.C. Notes. Acts 2007, No. 996, § 1, provided: "FINDINGS.

"The General Assembly finds that:

"(1) The General Assembly adopted Acts 34 and 35 of the First Extraordinary Session of 2006 to determine whether school districts were unable to contribute local resources necessary to qualify for participation in state-funded facilities programs;

"(2) School districts with insufficient bonding capacity were accommodated by the passage of Acts 22 and 23 of the First Extraordinary Session of 2006, which removed the bonded debt ratio, thus removing the cap on bond issuance;

"(3) School districts with declining enrollment were addressed by Act 2206 of 2005 by allowing a three-year average to be used in determining the school district's facilities wealth index and by Act 21 of the First Extraordinary Session of 2006, which provided additional funding for declining enrollment based on the previous two (2) years' average daily membership. No evidence was presented during the hearings held in 2006 pursuant to Act 57 of any school district suffering from a problem related to this;

"(4) The General Assembly researched a school district with a low assessed property valuation and a low facilities wealth index and determined that it is treated the same as a school district with high property valuation and a high facilities wealth index. The research indicated, for example, that Poyen is required to use the same amount of mills to build facilities for ten percent (10%) of its students as Bryant, which is in the middle, and as Bentonville, which is on top. No evidence was presented during the hearings held in 2006 pursuant to Act 57 of any school district suffering from a problem related to this; and

"(5) School districts at or above the 95th percentile are addressed through SB962 of the 86th General Assembly. It provides that every school district at 100% of the facilities wealth index or above is

adjusted to the same amount as the first district below one hundred percent (100%) on the facilities wealth index, unless that would exceed five thousandths (.005). In that case, the amount is capped at five thousandths (.005). No evidence was presented during the hearings held in 2006 pursuant to Act 57 of any school district suffering from a problem related to this."

Acts 2007, No. 996, § 3, provided: "The document attached hereto titled 'Arkansas Department of Education, Analysis of the Academic Facilities Wealth Index for Providing Facilities for 10% of a District's ADM', dated March 8, 2007, is specifically adopted by the House Education Committee and the Senate Education Committee and recommended to the General Assembly and shall be filed in the journals of the House and Senate."

Amendments. The 2007 amendment by No. 989, in the introductory language of (a), substituted "Commission for" for "Division of" and substituted "the Division of Public School Academic Facilities and Transportation recommends and the commission concurs" for "the division determines"; and added (a)(1)(G).

The 2007 amendment by No. 996, in (a), substituted "Commission for Arkansas" for "Division of" and substituted "recommends and the commission concurs" for "determines"; inserted "Arkansas" in (a)(1)(A); added (a)(1)(G); added (d) and (e) and redesignated the remaining subsections accordingly; in present (f), substituted "commission" for "division" and added "with the approval of the commission" following "may"; substituted "Commissioner of Education, or his designee" for "Director of the Division of Public School Academic Facilities and Transportation" in (f)(3)(A); deleted "or an individual or panel appointed by the director" following "superintendent" in (f)(5); added (f)(6); deleted "immediately" following "cease" in (f)(9)(A); substituted "State Board of Education" for "state board" in (f)(11)(A); redesignated former (f)(10)(C)(i) as present (f)(11)(C); deleted former (f)(10)(C)(ii) and made a related change; added (f)(12) and (f)(13); and added (j).

6-21-812. Facilities distress — Student transfers.

(a)(1) Any student attending a public school district classified as being in facilities distress shall automatically be eligible and entitled under the Arkansas Public School Choice Act of 1989, § 6-18-206, to transfer to another geographically contiguous school district not in facilities distress during the time period that a district is classified as being in facilities distress.

(2) The student is not required to file a petition by July 1 but shall meet all other requirements and conditions of the Arkansas Public School Choice Act of 1989, § 6-18-206.

(b) The resident district shall pay the cost of transporting the student from the resident district to the nonresident district.

(c) The nonresident district shall count the student for average daily membership purposes.

History. Acts 2005, No. 1426, § 1.

6-21-813. Inspections.

(a) The Division of Public School Academic Facilities and Transportation shall conduct random unannounced on-site inspections of all academic facilities that have been funded wholly or in part by moneys from the state to ensure compliance with the school district's facilities master plan and, if applicable, the school district's facilities improvement plan in order to preserve the integrity of and extend the useful life of public school academic facilities and equipment across the state.

(b) The division shall submit reports regarding its on-site inspections of academic facilities to the Commission for Arkansas Public School Academic Facilities and Transportation within thirty (30) days of completion of the on-site inspections.

(c) Based on the division's on-site inspection or notification by the division to the commission that the changes or additions to a school district's facilities master plan or facilities improvement plan required by the division have not been implemented within the time period prescribed by the division, the commission shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the General Assembly.

History. Acts 2005, No. 1426, § 1.

6-21-814. Appeals.

(a) A school district may appeal any determination of the Division of Public School Academic Facilities and Transportation under this subchapter to the Commission for Arkansas Public School Academic Facilities and Transportation in accordance with procedures developed by the commission.

(b) All decisions of the commission resulting from a school district's appeal of a division determination under this subchapter shall be final

and shall not be subject to further appeal or request for rehearing to the commission or petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2005, No. 1426, § 1.

CHAPTER 22

ARKANSAS REGISTERED VOLUNTEERS PROGRAM ACT

SECTION.

- 6-22-101. Legislative findings and intent.
- 6-22-102. Title.
- 6-22-103. Definitions.
- 6-22-104. Optional program development
— Requirements.

SECTION.

- 6-22-105. Registered volunteers — Requirements.
- 6-22-106. Sovereign immunity.
- 6-22-107. Applicability.
- 6-22-108. Construction.

Effective Dates. Acts 1997, No. 1012, § 12: Apr. 2, 1997. Emergency clause provided: "It is found and determined by the General Assembly that the immediate passage of this Act is necessary for the establishment of a registered volunteers program whereby local school districts can utilize the services of qualified volunteers in certain extracurricular and interscholastic activities and that any delay will cause irreparable harm to those students who will be unable to participate in extracurricular and interscholastic activities during the current school year and each year thereafter because school districts cannot afford to pay certified teachers to

sponsor the activities or there are no certified teachers available to act as sponsors. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-22-101. Legislative findings and intent.

(a) The General Assembly recognizes that the effective use of volunteers in the public schools can provide greater opportunities for students to participate in school-sponsored extracurricular and interscholastic activities, which many local school districts otherwise could not provide due to funding limitations and lack of availability of certified personnel.

(b) The General Assembly further recognizes that volunteers in the public schools should be properly screened and have effective training before they have significant unsupervised contact with students.

(c) The General Assembly intends by this chapter to provide for the establishment of a registered volunteers program in order that local school districts, students, and staff may have the advantages of services

from duly qualified volunteers who, in turn, will have more incentive to offer their time and talents for the benefit of Arkansas school children.

History. Acts 1997, No. 1012, § 1.

6-22-102. Title.

This chapter may be cited as the “Arkansas Registered Volunteers Program Act”.

History. Acts 1997, No. 1012, § 2.

6-22-103. Definitions.

As used in this chapter:

(1) “Extracurricular activity” means any intraschool activity that is outside the regular curriculum, including, but not limited to, sports and special interest clubs or groups;

(2) “Interscholastic activity” means any interschool activity that is outside the regular curriculum, including, but not limited to, sports and special interest clubs or groups which are subject to regulations of the Arkansas Activities Association;

(3) “Registered volunteer” means any volunteer who, subject to Arkansas Activities Association regulations and rules set by the local school district, is given written authorization by the school district to lead extracurricular activities or to assist a staff member who is a certified employee of the school district in extracurricular activities or interscholastic activities; and

(4) “Volunteer” means any person who, of his or her own free will, provides services without any financial gain to any local school district.

History. Acts 1997, No. 1012, § 3.

6-22-104. Optional program development — Requirements.

(a) Each local school district may develop a registered volunteers program and may accept the services of volunteers who qualify under the program to assist in extracurricular and interscholastic activities that are sponsored by the district.

(b) A school district that develops a registered volunteers program as set forth in this chapter shall:

(1) Take actions as are necessary to develop meaningful opportunities for qualified volunteers to assist in extracurricular activities and interscholastic activities;

(2) Take actions as are necessary to ensure that qualified volunteers have written job descriptions that define their duties and responsibilities;

(3) Provide for the recognition of qualified volunteers who have offered exceptional service to the school district; and

(4) Provide support for the volunteer program established under the State and Local Government Volunteers Act, § 21-13-101 et seq.

History. Acts 1997, No. 1012, § 4.

6-22-105. Registered volunteers — Requirements.

The superintendent of any school district that develops a registered volunteers program as set forth in this chapter shall require all potential registered volunteers to meet the following qualifications before the volunteers have any significant unsupervised contact with students:

(1) To authorize release of the results of a statewide and nationwide criminal records check by the Identification Bureau of the Department of Arkansas State Police that conforms to the applicable federal standards, which includes the taking of the potential volunteer's fingerprints, and which is dated not more than ninety (90) days prior to the date of its presentation;

(2)(A) To present a certificate of health dated not more than ninety (90) days prior to the date of its presentation stating that the potential volunteer is free from tuberculosis.

(B) The certificate may be issued by a regularly licensed physician or regularly constituted health authority, but interpretation of any x-ray film must be made by a competent roentgenologist or physician experienced in tuberculosis; and

(3) To complete a minimum of six (6) hours of training conducted under the direction of the school district for nonathletic extracurricular or nonathletic interscholastic activities and a minimum of twelve (12) hours of training conducted under the direction of the school district for athletic extracurricular activities or under the direction of the Arkansas Activities Association for athletic interscholastic activities.

History. Acts 1997, No. 1012, § 5.

for Volunteers Act, § 12-12-1601, may apply to this section.

A.C.R.C. Notes. The Criminal History

6-22-106. Sovereign immunity.

Qualified volunteers in a registered volunteers program shall enjoy the protection of the state's sovereign immunity to the same extent as the local school district's employees.

History. Acts 1997, No. 1012, § 6.

6-22-107. Applicability.

(a) The provisions of this chapter shall apply to those schools and institutions that voluntarily join the Arkansas Activities Association.

(b) The provisions of this chapter shall not apply to the following sports administered by the association:

(1) Football;

(2) Basketball; and

(3) Track and field.

History. Acts 1997, No. 1012, § 8.

6-22-108. Construction.

None of the provisions of this chapter shall be construed as to prohibit a school district from utilizing the services of the volunteers who operate under the supervision of certified school personnel.

History. Acts 1997, No. 1012, § 8.

CHAPTER 23

ARKANSAS CHARTER SCHOOLS ACT OF 1999

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. CONVERSION PUBLIC CHARTER SCHOOLS.
- 3. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS.
- 4. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — OPERATION.
- 5. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING.
- 6. LIMITED PUBLIC CHARTER SCHOOLS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-23-101. Title.
- 6-23-102. Legislative intent.
- 6-23-103. Definitions.
- 6-23-104. Charter form for public charter schools — Requirements — Revision.
- 6-23-105. Basis and procedure for public charter school probation or

SECTION.

- charter modification, revocation, or denial of renewal.
- 6-23-106. Impact on school desegregation efforts.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 22, § 3; Dec. 31, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View District No. 25 v. Huckabee, 351 Ark 31 (2002) declared the existing system of education to be unconstitutional because it is both inequitable and inadequate; that this act assists the Arkansas School for Mathematics, Sciences, and the Arts to be eligible for federal grants, and allows the school the flexibility to become a charter school; and that this act is immediately

necessary to assist the Arkansas School for Mathematics, Sciences, and the Arts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-23-101. Title.

This chapter shall be known and cited as the "Arkansas Charter Schools Act of 1999".

History. Acts 1999, No. 890, § 1.

6-23-102. Legislative intent.

It is the intent of the General Assembly, by this chapter, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain public schools that operate independently from the existing structure of local school districts as a method to accomplish the following:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as low-achieving;
- (3) Encourage the use of different and innovative teaching methods;
- (4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- (5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and
- (6) Hold the schools established under this chapter accountable for meeting measurable student achievement standards.

History. Acts 1999, No. 890, § 2.

6-23-103. Definitions.

As used in this chapter:

- (1) "Application" means the proposal for obtaining conversion public charter school status, open-enrollment public charter school status, or limited public charter school status;
- (2) "Charter" means a performance-based contract for an initial five-year period between the State Board of Education and an approved applicant for public charter school status that exempts the public charter school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of this title specified in the contract;
- (3) "Conversion public charter school" means a public school that has converted to operating under the terms of a charter approved by the local school board and the state board;
- (4) "Eligible entity" means:
 - (A) A public institution of higher education;
 - (B) A private nonsectarian institution of higher education;
 - (C) A governmental entity; or
 - (D) An organization that:

(i) Is nonsectarian in its program, admissions policies, employment practices, and operations; and

(ii) Has applied for tax exempt status under § 501(c)(3) of the Internal Revenue Code of 1986;

(5) “Founding member” means any individual who is either:

(A) A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or

(B) A member of the initial governing nonadvisory board of the open-enrollment public charter school;

(6) “Limited public charter school” means a public school that has converted to operating under the terms of a limited public charter approved by the local school board and the state board;

(7) “Local school board” means a board of directors exercising the control and management of a public school district;

(8) “Open-enrollment public charter school” means a public school:

(A) That is operating under the terms of a charter granted by the state board on the application of an eligible entity; and

(B) That may draw its students from any public school district in this state;

(9) “Parent” means any parent, legal guardian, or other person having custody or charge of a school-age child;

(10) “Public school” means a school that is part of a public school district under the control and management of a local school board; and

(11) “Public charter school” means a conversion public charter school, an open-enrollment public charter school, or a limited public charter school.

History. Acts 1999, No. 890, § 3; 2003 (2nd Ex. Sess.), No. 22, § 2; 2005, No. 2005, § 2; 2007, No. 736, § 1.

Amendments. The 2005 amendment substituted “five-year” for “three-year” in (1).

The 2007 amendment rewrote the section.

U.S. Code. Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in this section, is codified as 26 U.S.C. § 501.

6-23-104. Charter form for public charter schools — Requirements — Revision.

(a) A charter for a public charter school shall:

(1) Be in the form of a written contract signed by the Commissioner of Education and the chief operating officer of the public charter school;

(2) Satisfy the requirements of this chapter; and

(3) Ensure that the information required under § 6-23-404 is consistent with the information provided in the application and any modification that the State Board of Education may require.

(b) Any revision or amendment of the charter for a public charter school may be made only with the approval of the state board.

History. Acts 1999, No. 890, § 10; 2007, No. 736, § 2.

Amendments. The 2007 amendment

substituted “public” for “open-enrollment” in the section heading; inserted “public” preceding “charter” in (a) and (b); in (a)(1),

substituted "Commissioner of Education" for "chairman of the state board" and inserted "public charter"; substituted "State Board of Education" for "state board" in (a)(3); and in (b), inserted "or amendment," and substituted "state board" for "State Board of Education."

6-23-105. Basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal.

(a) The State Board of Education may place a public charter school on probation or may modify, revoke, or deny renewal of its charter if the state board determines that the persons operating the public charter school:

(1) Committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) Failed to satisfy generally accepted accounting standards of fiscal management;

(3) Failed to comply with this chapter or other applicable law or regulation; or

(4) Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the state board.

(b) Any action the state board may take under this section shall be based on the best interests of the public charter school's students, the severity of the violation, and any previous violation the public charter school may have committed.

(c) The state board shall adopt a procedure to be used for placing a public charter school on probation or modifying, revoking, or denying renewal of the school's charter.

(d)(1) The procedure adopted under this section shall provide an opportunity for a hearing to the persons operating the public charter school and to the parents of students enrolled in the public charter school.

(2)(A) The hearing shall be held at the location of the regular or special meeting of the state board.

(B) The state board shall provide sufficient written notice of the time and location of the hearing.

(3) There is no further right of appeal beyond the determination of the state board.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to any hearing concerning a public charter school.

History. Acts 1999, No. 890, § 11; 2005, No. 2005, § 3; 2007, No. 736, § 3.

Amendments. The 2005 amendment substituted "at the location ... of the hearing" for "at the facility at which the charter school is operated" in (d)(2).

The 2007 amendment inserted "public" in the section heading; inserted "public" and "public charter" throughout the section; added (a)(4), (d)(3) and (d)(4); and made related changes.

6-23-106. Impact on school desegregation efforts.

(a) The applicants for a public charter school, local school board in which a proposed public charter school would be located, and the State Board of Education shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

(b) The state board shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.

(c) The state board shall not approve any public charter school under this chapter or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.

History. Acts 1999, No. 890, § 15; 2005, No. 2005, § 4; 2007, No. 736, § 4.

A.C.R.C. Notes. As enacted, subsection (b) began: “Within one hundred and twenty (120) days of the passage of this act.”

Amendments. The 2005 amendment added (c).

The 2007 amendment inserted “public” and “public school” throughout the section; substituted “applicants” for “petitioners” in (a); and in (b), substituted “attempt” for “develop a process” and deleted “which shall be similar to the guidelines set forth in § 6-18-206(g)” from the end.

SUBCHAPTER 2 — CONVERSION PUBLIC CHARTER SCHOOLS

SECTION.

- 6-23-201. Application for conversion public charter school status.
- 6-23-202. Authorization for conversion public charter school status.
- 6-23-203. Resubmission of applications.

SECTION.

- 6-23-204. Charter renewal.
- 6-23-205. Teacher hires when charter revoked.
- 6-23-206. Rules and regulations.
- 6-23-207. [Repealed.]

Effective Dates. Acts 2001, No. 1311, § 10: Apr. 5, 2001. Emergency clause provided: “It is found and determined by the General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary to have the funding before the beginning of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes

are immediately necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

6-23-201. Application for conversion public charter school status.

(a)(1) Any public school district may apply to the State Board of Education for conversion public charter school status for a public school in the public school district in accordance with a schedule approved by the state board.

(2) A public school district's application for conversion public charter school status for the public school may include, but shall not be limited to, the following purposes:

(A) Adopting research-based school or instructional designs, or both, that focus on improving student and school performance;

(B) Addressing school improvement status resulting from sanctions listed in §§ 6-15-207(c)(8) and 6-15-429(a) and (b); or

(C) Partnering with other public school districts or public schools to address students' needs in a geographical location or multiple locations.

(b) Such application shall:

(1)(A) Describe the results of a public hearing called by the local school board for the purpose of assessing support of an application for conversion public charter school status.

(B) Notice of the public hearing shall be:

(i) Distributed to the community, certified personnel, and the parents of all students enrolled at the public school for which the public school district initiated the application; and

(ii) Published in a newspaper having general circulation in the public school district at least three (3) weeks prior to the date of the meeting;

(2) Describe a plan for school improvement that addresses how the conversion public charter school will improve student learning and meet the state education goals;

(3) Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the conversion public charter school in improving student learning and meeting or exceeding the state education goals;

(4) Describe how the certified employees and parents of students to be enrolled in the conversion public charter school will be involved in developing and implementing the school improvement plan and identifying performance criteria;

(5) Describe how the concerns of certified employees and parents of students enrolled in the conversion public charter school will be solicited and addressed in evaluating the effectiveness of the improvement plan; and

(6) List the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the conversion public charter school will be exempt.

(c)(1) A certified teacher employed by a public school in the school year immediately preceding the effective date of a charter for a public

school conversion within that public school district may not be transferred to or be employed by the conversion public charter school over the certified teacher's objection, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

(2) If the transfer of a teacher within the public school district is not possible because only one (1) public school exists for that teacher's certification level, then the local school board shall call for a vote of the certified teachers in the proposed conversion public charter school site and proceed, at the local school board's option, with the conversion public charter school application if a majority of the certified teachers approve the proposal.

History. Acts 1999, No. 890, § 4; 2001, No. 1311, § 1; 2005, No. 2005, § 5; 2007, No. 736, § 5. redesignated former (a) as present (a)(1); and added (a)(2).

Amendments. The 2005 amendment The 2007 amendment rewrote the section.

6-23-202. Authorization for conversion public charter school status.

As requested by the conversion public charter school applicant, the State Board of Education shall review the application for conversion public charter school status and may approve any application that:

(1) Provides a plan for improvement at the school level for improving student learning and for meeting or exceeding the state education goals;

(2) Includes a set of performance-based objectives and student achievement objectives for the term of the charter and the means for measuring those objectives on at least a yearly basis;

(3) Includes a proposal to directly and substantially involve the parents of students to be enrolled in the conversion public charter school, as well as the certified employees and the broader community, in the process of carrying out the terms of the charter; and

(4) Includes an agreement to provide a yearly report to parents, the community, the local school board, and the state board that indicates the progress made by the conversion public charter school in meeting the performance objectives during the previous year.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 6. graph, substituted "applicant" for "petitioner," and "application" for "petition" twice; and inserted "school" preceding "board" in (4).

Amendments. The 2007 amendment inserted "conversion public" throughout the section; in the introductory para-

6-23-203. Resubmission of applications.

(a) The State Board of Education may allow applicants to resubmit applications for conversion public charter school status if the original application was, in the opinion of the state board, deficient in one (1) or more respects.

(b) The Department of Education may provide technical assistance to the conversion public charter school applicants in the creation or modification of these applications.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 7.

Amendments. The 2007 amendment, throughout the section, substituted “ap- plications” for “petitions” and “applicants” for “petitioners,” and inserted “conversion public.”

6-23-204. Charter renewal.

The State Board of Education is authorized to renew charters of conversion public charter schools on a one-year or multiyear basis, not to exceed five (5) years, after the initial five-year period if the renewal is approved by the local school board.

History. Acts 1999, No. 890, § 4; 2005, No. 2005, § 6; 2007, No. 736, § 8.

Amendments. The 2005 amendment substituted “five (5)” for “three (3)” and “five-year” for “three-year.” The 2007 amendment inserted “of conversion public charter schools.”

6-23-205. Teacher hires when charter revoked.

If a certified teacher employed by a public school district in the school year immediately preceding the effective date of the charter is employed by a conversion public charter school and the charter is revoked, the certified teacher will receive a priority in hiring for the first available position for which the certified teacher is qualified in the public school district where the certified teacher was formerly employed.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 9.

Amendments. The 2007 amendment inserted “conversion public.”

6-23-206. Rules and regulations.

The State Board of Education is authorized and directed to establish rules and regulations for conversion public charter schools.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 10.

Amendments. The 2007 amendment inserted “conversion public.”

6-23-207. [Repealed.]

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as repealed by Acts 2007, No. 1573, § 62. This section was also amended by Acts 2007, No. 736, § 11 to read as follows: “§ 6-23-207. State Board of Education status report.

“The State Board of Education shall report on the status of the conversion public charter schools program to the

General Assembly each biennium and to the House Interim Committee on Education and the Senate Interim Committee on Education during the interim between sessions of the General Assembly.”

Publisher’s Notes. This section, concerning the State Board of Education status report, was repealed by Acts 2007, No. 1573, § 62. The section was derived from Acts 1999, No. 890, § 4.

SUBCHAPTER 3 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS

SECTION.

- 6-23-301. Application forms and procedures for open-enrollment public charter schools.
- 6-23-302. Application for an open-enrollment public charter school.
- 6-23-303. Authorization for an open-enrollment public charter school.
- 6-23-304. Requirements — Preference for certain districts.

SECTION.

- 6-23-305. Notice of disapproval — Assistance with resubmission of application.
- 6-23-306. Contents of open-enrollment public charters.
- 6-23-307. Renewal of charter.
- 6-23-308. Priority hiring for teachers.
- 6-23-309. Rules and regulations.
- 6-23-310. Status report.

Effective Dates. Acts 2001, No. 463, § 2: Feb. 28, 2001. Emergency clause provided: "It is found and determined by the General Assembly that current charter school enrollment requirements do not allow charter schools located in districts under court ordered desegregation to select students in a manner necessary for compliance with the court order; that desegregation efforts could be hampered; and this act is immediately necessary to facilitate compliance. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1311, § 10: Apr. 5, 2001. Emergency clause provided: "It is found

and determined by the General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary to have the funding before the beginning of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes are immediately necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-23-301. Application forms and procedures for open-enrollment public charter schools.

(a) The State Board of Education shall adopt:

(1) An application form, a schedule, and a procedure that must be used to apply for a charter for an open-enrollment public charter school; and

(2) Criteria to use in selecting a program for which a charter may be granted.

(b) The application form must provide space for including all information required under this chapter to be contained in the charter.

(c) As part of the application procedure, the state board may require a petition supporting a charter for an open-enrollment public charter school signed by a specified number of parents or guardians of school-age children residing in the area in which an open-enrollment public charter school is proposed, or it may hold a public hearing to determine parental support for the school.

History. Acts 1999, No. 890, § 8; 2007, No. 736, § 12.

Amendments. The 2007 amendment inserted “public” in the section heading

and twice in (c); and substituted “an open-enrollment public charter school” for “a charter school” in (a)(1).

6-23-302. Application for an open-enrollment public charter school.

(a) Pursuant to the provisions of this chapter, an eligible entity may apply to the State Board of Education to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district.

(b) The application to the state board for an open-enrollment public charter school shall be made in accordance with a schedule approved by the state board.

(c) The application shall:

(1)(A) Describe the results of a public hearing called by the applicant for the purpose of assessing support for an application for an open-enrollment public charter school.

(B)(i) Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in each public school district from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment.

(ii) The last publication of notice shall be no less than seven (7) days prior to the public meeting.

(iii) The notice shall not be published in the classified or legal notice section of the newspaper.

(iv) The notice shall be published in no less than ten-point type and shall be no less than two by four inches (2" x 4") or four by two inches (4" x 2").

(C)(i) Within seven (7) calendar days following the first publication of notice required under subdivision (c)(1)(B) of this section, letters announcing the public hearing shall be sent to the superintendent and school board members of each of the public school districts from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent and school board members of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

(ii) The letters to the school board members required in subdivision (c)(1)(C)(i) of this section shall only be required for each school board member whose name and mailing address is provided by the superintendent of an affected school district or by the Department of Education upon the request of the applicant.

(iii) An affected school district may submit written comments concerning the application to the state board to be considered at the time of the state board's review of the application;

(2) Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals;

(3) Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter school operation to measure its progress in improving student learning and meeting or exceeding the state education goals;

(4) List the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the open-enrollment public charter school seeks to be exempted;

(5)(A) Describe the facility to be used for the open-enrollment public charter school and state the facility's current use and the facility's use for the immediately preceding three (3) years.

(B) If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school board of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

(C) If the facility that will be used for the open-enrollment public charter school is owned by or leased from a sectarian organization, the terms of the facility agreement must be disclosed to the state board; and

(6) Include a detailed budget and a governance plan for the operation of the open-enrollment public charter school.

(d)(1) The application shall be first reviewed and approved by the local school board of the public school district in which the proposed open-enrollment public charter school will operate.

(2)(A) However, if the local school board disapproves the application, the applicant shall have an immediate right to proceed with a written notice of appeal to the state board.

(B) The state board shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal.

(C) All interested parties may appear at the hearing and present relevant information regarding the application.

(e) A certified teacher employed by a public school district in the school year immediately preceding the effective date of a charter for an open-enrollment public charter school operated at a public school facility may not be transferred to or be employed by the open-enrollment public charter school over the certified teacher's objections.

History. Acts 1999, No. 890, § 5; 2001, No. 1311, § 2; 2005, No. 2005, § 7; 2007, No. 736, § 13.

Amendments. The 2005 amendment, in (c)(1)(C)(ii), substituted “member” for “members” and inserted “or by the Department of Education.” The 2007 amendment rewrote the section.

6-23-303. Authorization for an open-enrollment public charter school.

As requested by the applicant for an open-enrollment public charter school, the State Board of Education shall review the application for an open-enrollment public charter school and may approve any application that:

(1) Provides a plan for academic achievement that addresses how the open-enrollment public charter school proposes to improve student learning and meet the state education goals;

(2) Includes a set of performance criteria that will be used during the initial five-year period of the open-enrollment public charter school’s operation to measure its progress in meeting its academic performance goals;

(3) Includes a proposal to directly and substantially involve the parents of students to be enrolled in the open-enrollment public charter school, the certified employees, and the broader community in carrying out the terms of the open-enrollment charter;

(4) Includes an agreement to provide an annual report to parents, the community, and the state board that demonstrates the progress made by the open-enrollment public charter school during the previous academic year in meeting its academic performance objectives;

(5) Includes a detailed budget, a business plan, and a governance plan for the operation of the open-enrollment public charter school; and

(6) Establishes the eligible entity’s status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 14.

Amendments. The 2007 amendment rewrote the section.

6-23-304. Requirements — Preference for certain districts.

(a) The State Board of Education may approve or deny an application based on:

(1) Criteria provided by law or by rule adopted by the state board;

(2) Findings of the state board relating to improving student performance and encouraging innovative programs; and

(3) Written findings or statements received by the state board from any public school district likely to be affected by the open-enrollment public charter school.

(b) The state board shall give preference in approving an application for an open-enrollment public charter school to be located in any public school district:

(1) When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;

(2) When the district has been classified by the state board as in academic distress under § 6-15-428; or

(3) When the district has been classified by the Department of Education as in some phase of school improvement status under § 6-15-426 or some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the state board.

(c)(1) The state board may grant no more than a total of twenty-four (24) charters for open-enrollment public charter schools.

(2) An open-enrollment public charter applicant's school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in subdivision (c)(6) of this section.

(3) An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized pursuant to the provisions of § 6-13-1601 et seq. until after the third year of the administrative reorganization.

(4) The General Assembly hereby recognizes by established relevant demonstrated educational accountability measures that the Knowledge Is Power Program (KIPP) Delta College Preparatory Open-Enrollment Charter School has:

(A) Improved student learning through innovative ideas and techniques;

(B) Increased learning opportunities for all students; and

(C) Created special emphasis on expanded learning experiences for students who were previously identified as low-achieving.

(5) As a result, the Knowledge Is Power Program is recognized as an effective method for:

(A) Meeting the statutory intent of this chapter;

(B) Closing the achievement gap in public schools for economically disadvantaged, racial, and ethnic subgroups, the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq. and § 6-15-1601 et seq.; and

(C) Otherwise providing an alternative education that has been proven adequate and equitable to Arkansas students.

(6) Therefore, any charter applicant that receives an approved open-enrollment public charter may petition the state board for additional licenses to establish an open-enrollment public charter school in any of the various congressional districts in Arkansas provided that the applicant meets the following conditions, subject to the normal application, review, and approval process of the state board:

(A) The approved open-enrollment public charter applicant has demonstrated success in student achievement gains, as defined by the state board; and

(B) The approved open-enrollment public charter applicant has not:

(i) Been subject to any disciplinary action by the state board;
 (ii) Been classified as in school improvement or academic or fiscal distress; and

(iii) Had its open-enrollment public charter placed on probation, suspended, or revoked; and

(C) The state board determines in writing by majority of a quorum of the state board present that the open-enrollment public charter applicant has generally established the educational program results and criteria set forth in this subdivision (c)(6).

(d) No private or parochial elementary or secondary school shall be eligible for open-enrollment public charter school status.

History. Acts 1999, No. 890, §§ 5, 8, 13; 2001, No. 1311, § 3; 2005, No. 2005, § 8; 2007, No. 736, § 15; 2007, No. 827, § 117.

A.C.R.C. Notes. Prior to the amendment by Acts 2005, No. 2005, § 8, § 6-23-204 contained subsections (a)-(d). The amendment purported to amend subsections “(b) through (c).” It amended (b) and (c), added new language denominated as (d), and added a new subsection (e) which restated the language of former (d)(1). Former (d)(2) was neither specifically set out nor stricken through. It read, “No open-enrollment charter school shall be located in a school district with an enrollment of fewer than five hundred (500) students at the time that the state board initially approves the charter.”

Acts 2007, No. 827, § 117, repealed what was the former subdivision (d)(2) of § 6-23-304 before Acts 2005, No. 2005,

§ 8 amended § 6-23-304. Acts 2005, No. 2005, § 8 had redesignated former subdivision (d)(1) as (e), and former (d)(2) was neither specifically set out nor stricken through.

Amendments. The 2005 amendment substituted “district ... under § 6-15-428” for “percentage of students not reading at grade level is above the average for the state” in (b)(2); added (b)(3) and made a related change; rewrote (c); and added (d) and (e).

The 2007 amendment by No. 736 rewrote (a)-(c); deleted former (d); redesignated former (e) as present (d); and inserted “public” in present (d).

The 2007 amendment by No. 827 amended this section to clarify that Acts 2005, No. 2005, § 8, renumbered the former subdivision (d)(1) as (e) [now (d)] and repealed former subdivision (d)(2).

6-23-305. Notice of disapproval — Assistance with resubmission of application.

(a) If the State Board of Education disapproves an application for an open-enrollment public charter school, the state board shall notify the applicant in writing of the reasons for such disapproval.

(b) The state board may allow the applicant for an open-enrollment public charter school to resubmit its application if the original application was found to be deficient by the state board.

(c) The Department of Education may provide technical assistance to the applicant for an open-enrollment public charter school in the creation or modification of its application.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 16.

Amendments. The 2007 amendment rewrote the section.

6-23-306. Contents of open-enrollment public charters.

An open-enrollment public charter granted under this subchapter shall:

- (1) Describe the educational program to be offered;
- (2) Specify the period for which the open-enrollment public charter or any renewal is valid;
- (3) Provide that the continuation or renewal of the open-enrollment public charter is contingent on acceptable student performance on assessment instruments adopted by the State Board of Education and on compliance with any accountability provision specified by the open-enrollment public charter, by a deadline, or at intervals specified by the open-enrollment public charter;
- (4) Establish the level of student performance that is considered acceptable for purposes of subdivision (3) of this section;
- (5) Specify any basis, in addition to a basis specified by this chapter, on which the open-enrollment public charter school may be placed on probation or its charter is revoked or on which renewal of the open-enrollment public charter may be denied;
- (6) Prohibit discrimination in admissions policy on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility, except as follows:
 - (A) The open-enrollment public charter may allow a weighted lottery to be used in the student selection process when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation; and
 - (B) The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in accordance with this title;
- (7) Specify the grade levels to be offered;
- (8) Describe the governing structure of the program;
- (9) Specify the qualifications to be met by professional employees of the program;
- (10) Describe the process by which the persons providing the program will adopt an annual budget;
- (11) Describe the manner in which the annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the persons providing the program will provide information necessary for the public school district in which the program is located to participate;
- (12) Describe the facilities to be used, including the terms of the facility utilization agreement if the facility for the open-enrollment public charter school is owned or leased from a sectarian organization;
- (13) Describe the geographical area, public school district, or school attendance area to be served by the program;

(14)(A) Specify methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

(B)(i) Except as provided in subdivision (14)(C) of this section, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept, the open-enrollment public charter must require the open-enrollment public charter school to use a random, anonymous student selection method that shall be described in the charter application.

(ii) However, an open-enrollment public charter school may allow a preference for:

(a)(1) Children of the founding members of the eligible entity.

(2) The number of enrollment preferences granted to children of founding members shall not exceed ten percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

(b) Siblings of students currently enrolled in the open-enrollment public charter school.

(C) The open-enrollment public charter may allow use of a weighted lottery in the student selection process when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation, as permitted by the Charter Schools Program, Title V, Part B, Non-Regulatory Guidance of the United States Department of Education, July, 2004; and

(15) Include a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions, including hiring and retention of administrators, teachers, and other employees whose salaries or benefits are derived from any public moneys.

History. Acts 1999, No. 890, § 9; 2001, No. 463, § 1; 2007, No. 736, § 17.

Amendments. The 2007 amendment inserted “open-enrollment public” throughout the section and in the section heading; rewrote the introductory paragraph; deleted “charter” preceding “renewal” in (2); inserted “public” in (13); and added (14)(B)(ii); added “as permitted by .

.. Department of Education, July, 2004” in (14)(C).

U.S. Code. Title VI of the Civil Rights Act of 1964, referred to in this section, is codified as 42 U.S.C.S. § 2000d et seq. Title IX of the Education Amendments of 1972 is codified as 20 U.S.C.S. § 1681 et seq.

6-23-307. Renewal of charter.

After the initial five-year period of an open-enrollment public charter, the State Board of Education is authorized to renew the open-enrollment public charter on a one-year or multiyear basis, not to exceed five (5) years.

History. Acts 1999, No. 890, § 5; 2001, No. 1311, § 4; 2005, No. 2005, § 9; 2007, No. 736, § 18.

Amendments. The 2005 amendment substituted “five-year” for “three-year”

and “five (5) years” for “three (3) years per each charter renewal.”

The 2007 amendment inserted “public” following “open-enrollment” and substituted “the charter” for “these charters.”

6-23-308. Priority hiring for teachers.

If a certified teacher employed by a public school district in the school year immediately preceding the effective date of the open-enrollment public charter is employed by an open-enrollment public charter school and the open-enrollment public charter is revoked, the certified teacher will receive a priority in hiring for the first available position for which the certified teacher is qualified in the public school district where the certified teacher was formerly employed.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 19.

Amendments. The 2007 amendment

substituted “public charter school” for “charter school.”

6-23-309. Rules and regulations.

The State Board of Education is authorized to promulgate rules and regulations for the creation of open-enrollment public charter schools.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 20.

Amendments. The 2007 amendment inserted “public.”

6-23-310. Status report.

The State Board of Education shall report on the status of the open-enrollment public charter school programs to the General Assembly each biennium and to the House Interim Committee on Education and the Senate Interim Committee on Education during the interim between regular sessions of the General Assembly.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 21.

Amendments. The 2007 amendment rewrote the section.

SUBCHAPTER 4 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS —
OPERATION

SECTION.	SECTION.
6-23-401. Authority under a charter for open-enrollment public charter schools.	6-23-403. Annual audit of open-enrollment public charter school required.
6-23-402. Enrollment numbers and deadline.	6-23-404. Evaluation of open-enrollment public charter schools.

Effective Dates. Acts 2001, No. 1311, § 10: Apr. 5, 2001. Emergency clause provided: “It is found and determined by the

General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary

to have the funding before the beginning of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes are immediately necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the pres-

ervation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-23-401. Authority under a charter for open-enrollment public charter schools.

(a) An open-enrollment public charter school:

(1) Shall be governed by an eligible entity that is fiscally accountable and under the governing structure as described by the charter;

(2) Shall provide instruction to students at one (1) or more elementary or secondary grade levels as provided by the charter;

(3) Shall retain authority to operate under the charter contingent on satisfactory student performance as provided by the charter and in accordance with this chapter;

(4) Shall have no authority to impose taxes;

(5) Shall not incur any debts without the prior review and approval of the Commissioner of Education;

(6) Shall not charge students tuition or fees that would not be allowable charges in the public school districts; and

(7) Shall not be religious in its operations or programmatic offerings.

(b) An open-enrollment public charter school is subject to any prohibition, restriction, or requirement imposed by this title and any rule and regulation promulgated by the State Board of Education under this title relating to:

(1) Monitoring compliance with this chapter, as determined by the commissioner;

(2) Public school accountability under this title;

(3) High school graduation requirements as established by the state board;

(4) Special education programs as provided by this title;

(5) Conducting criminal background checks for employees as provided in this title; and

(6) Health and safety codes as established by the state board and local governmental entities.

History. Acts 1999, No. 890, § 6; 2007, No. 736, § 22.

Amendments. The 2007 amendment

inserted "public" in the section heading and the introductory paragraphs of (a) and (b); substituted "Commissioner" for

“Director of the Department” in (a)(5); and substituted “commissioner” for “director” in (b)(1).

6-23-402. Enrollment numbers and deadline.

(a) An open-enrollment public charter school may enroll a number of students not to exceed the number of students specified in its charter.

(b)(1) Any student enrolling in an open-enrollment public charter school shall enroll in that school by July 30 for the upcoming school year during which the student will be attending the open-enrollment public charter school.

(2) However, if a student enrolled by July 30 should no longer choose to attend the open-enrollment public charter school, the open-enrollment public charter school may enroll a replacement student.

(c) Open-enrollment public charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Department of Education.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 5; 2005, No. 2005, § 10; 2007, No. 736, § 23.

Amendments. The 2005 amendment substituted “July 1” for “April 15” in (b)(1) and (2).

The 2007 amendment inserted “public” throughout the section; substituted “July 30” for “July 1” in (b)(1) and (2); and substituted “for the upcoming school year” for “of the school year prior to the school year” in (b)(1).

6-23-403. Annual audit of open-enrollment public charter school required.

Any other provisions of the Arkansas Code notwithstanding, an open-enrollment public charter school shall be subject to the same auditing and accounting requirements as any other public school district in the state.

History. Acts 1999, No. 890, § 14; 2007, No. 736, § 24.

Amendments. The 2007 amendment inserted “public” in the section heading

and the section; deleted “Annotated” following “Arkansas Code”; and deleted former (b).

6-23-404. Evaluation of open-enrollment public charter schools.

(a) The Department of Education shall cause to be conducted an annual evaluation of open-enrollment public charter schools.

(b) An annual evaluation shall include, but not be limited to, consideration of:

- (1) Student scores under the statewide assessment program described in § 6-15-433;
- (2) Student attendance;
- (3) Student grades;
- (4) Incidents involving student discipline;
- (5) Socioeconomic data on students’ families;
- (6) Parental satisfaction with the schools; and

(7) Student satisfaction with the schools.

(c) The State Board of Education may require the charter holder to appear before the state board to discuss the results of the evaluation and to present further information to the state board as the department or the state board deems necessary.

History. Acts 1999, No. 890, § 12; inserted “public” in (a); rewrote (b)(1); and 2001, No. 1311, § 6; 2007, No. 736, § 25. added (c).

Amendments. The 2007 amendment

SUBCHAPTER 5 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING

SECTION.

- 6-23-501. Funding for open-enrollment public charter schools.
6-23-502. Source of funding.
6-23-503. Use of funding.
6-23-504. Employee benefits.

SECTION.

- 6-23-505. Annual audit.
6-23-506. Assets of school as property of state.
6-23-507. Rules and regulations.

Effective Dates. Acts 2001, No. 1311, § 10; Apr. 5, 2001. Emergency clause provided: “It is found and determined by the General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary to have the funding before the beginning of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes are immediately necessary. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2003 (2nd Ex. Sess.), No. 59, § 6, provided: “This act shall become effective on July 1, 2004.”

6-23-501. Funding for open-enrollment public charter schools.

(a)(1) An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or pursuant to rules promulgated by the State Board of Education.

(2) Funding for an open-enrollment public charter school shall be based upon the current year three-quarter average daily membership of the open-enrollment public charter school as follows:

(A) The initial funding estimate for each school year shall be based on enrollment as of July 30 preceding the school year in which the students are to attend;

(B) In December, funding will be adjusted based on the first-quarter average daily membership; and

(C) A final adjustment will be made after the current year three-quarter average daily membership is established.

(3) Funding for an open-enrollment public charter school shall be paid in twelve (12) equal installments each fiscal year.

(b) An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.

(c) Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.

(d)(1) An open-enrollment public charter school shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws its students if the public school district decides to sell or lease the public school facility.

(2) The public school district may not require lease payments that exceed the fair market value of the property.

(3) The application of this subsection (d) is subject to the rights of a repurchaser under § 6-13-103 regarding property taken by eminent domain.

(4) A public school district is exempt from the provisions of this subsection (d) if the public school district, through an open bid process, receives and accepts an offer to lease or purchase the property from a purchaser other than the open-enrollment public charter school for an amount that exceeds the fair market value.

(5) The purposes of this subsection (d) are to:

(A) Acknowledge that taxpayers intended a public school facility to be used as a public school; and

(B) Preserve the option to continue that use.

(6) Nothing in this subsection (d) is intended to diminish the opportunity for an Arkansas Better Chance program to bid on the purchase or lease of the public school facility on an equal basis as the open-enrollment public charter school.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 7; 2003 (2nd Ex. Sess.), No. 59, § 3; 2005, No. 2005, § 11; 2007, No. 736, § 26.

Amendments. The 2005 amendment substituted “ § 6-20-2305(a) and (b)” for “ § 6-20-2005(a) and (b)” in (a)(1); and substituted “July 1” for “April 15” in (a)(2)(A).

The 2007 amendment inserted “public” throughout the section; substituted “July

30” for “July 1” in (a)(2)(A); substituted “first-quarter” for “first quarter” in (a)(2)(B); substituted “An” for “Except for state transportation aid funds, an”, added “public” preceding “charter” and substituted “any” for “other” in (b); and added (d).

6-23-502. Source of funding.

(a) Open-enrollment public charter schools shall be funded each year through funds set aside from funds appropriated to state foundation funding aid in the Public School Fund.

(b) The amount set aside shall be determined by the State Board of Education.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 8; 2007, No. 736, § 27.

Amendments. The 2007 amendment inserted “public” in the section heading and (a); and substituted “state foundation

funding aid” for “state equalization aid” in (a).

Cross References. Public School Fund, § 6-20-203 — § 6-20-206, § 6-20-211, § 19-5-305.

6-23-503. Use of funding.

(a) An open-enrollment public charter school may not use the monies that it receives from the state for any sectarian program or activity or as collateral for debt.

(b)(1) No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions.

(2) Every contract or lease into which an open-enrollment public charter school enters shall include the wording of subdivision (b)(1) of this section.

History. Acts 1999, No. 890, § 7; 2007, No. 736, § 28.

A.C.R.C. Notes. Acts 2007, No. 1420, § 38 amends uncoded § 24 of Acts 2007, No. 229, to read as follows: “(a) Regardless of any provision of law to the contrary, beginning with the 2007-2008 school year, no school district shall receive state funding for those students in the district’s prior year three quarter average daily membership who were enrolled and attending a public school with an internet, long-distance or virtual technology curriculum based program which was not part of a public school district and the public school program was funded by a federal voluntary public school choice grant administered by the Department of Education.

“(b) Prior to July 1, 2007, the Department of Education shall notify the Arkansas State Board of Education of the maximum number of students that the State Board of Education shall allow to enroll and attend any open-enrollment charter school that uses internet, long-distance or virtual technology as the primary method

of teaching. It is the intent of this language that the Department shall not establish and certify a number of students to the State Board of Education that exceeds the number of students for which school districts were not able to receive state funding because of the requirements of paragraph (a). However, to the extent there are any revenue savings caused by the closure of any open-enrollment charter school in existence on July 1, 2006, the State Board of Education may increase the maximum number of students allowed to enroll and attend an internet, long-distance or virtual technology open-enrollment charter school to the extent the maximum number of students does not exceed five hundred (500) students.

“(c) The provisions of this special language shall not restrict, affect or impair any other provision of law or rule concerning public school districts or public charter schools except as provided in paragraph (a) and (b).

“(d) The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009.”

Amendments. The 2007 amendment inserted “public” throughout the section.

6-23-504. Employee benefits.

Employees of an open-enrollment public charter school shall be eligible to participate in all benefits programs available to public school employees.

History. Acts 1999, No. 890, § 7; 2007, substituted “public charter school” for No. 736, § 29. “charter school.”

Amendments. The 2007 amendment

6-23-505. Annual audit.

An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 of each year in accordance with generally accepted auditing procedures and containing any other data as determined by the State Board of Education.

History. Acts 1999, No. 890, § 7; 2007, substituted “public charter school” for No. 736, § 30. “charter school” twice.

Amendments. The 2007 amendment

6-23-506. Assets of school as property of state.

(a) Upon dissolution of the open-enrollment public charter school or upon nonrenewal or revocation of the charter, all net assets of the open-enrollment public charter school, including any interest in real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of the open-enrollment public charter school.

(b)(1) If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the State Board of Education may require that the property be sold.

(2) The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

History. Acts 1999, No. 890, § 7; 2007, “public” three times, inserted “or revocation” and inserted “including any interest

Amendments. The 2007 amendment added (b); and, in present (a), inserted in real property.”

6-23-507. Rules and regulations.

The State Board of Education shall have the authority to promulgate rules and regulations in accordance with other state and federal statutes to implement this subchapter and § 6-23-402.

History. Acts 1999, No. 890, § 7.

SUBCHAPTER 6 — LIMITED PUBLIC CHARTER SCHOOLS

SECTION.

6-23-601. Application for limited public charter school status —

Approval — Teacher transfers — Annual evaluation.

Effective Dates. Acts 2001, No. 1311, § 10: Apr. 5, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary to have the funding before the beginning of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes

are immediately necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-23-601. Application for limited public charter school status — Approval — Teacher transfers — Annual evaluation.

(a)(1) Any public school may apply to the State Board of Education for limited public charter school status for alternative comprehensive staffing and compensation programs designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives, to be known as a limited public charter school.

(2) A limited public charter shall be for the purpose of instituting alternative staffing practices in accordance with a schedule approved by the state board.

(3) A limited public charter shall be initially established for a period of no more than five (5) years and may be renewed on a one-year or multiyear basis, not to exceed five (5) years per charter renewal.

(b) The application shall:

(1)(A) Contain the provisions of this title and the specific rules and regulations promulgated by the state board from which the limited public charter school will be exempt.

(B) The provisions from which the public school district may be exempt for the limited public charter school only shall be limited to the following:

(i) The duty-free lunch period requirements set forth in § 6-17-111;

(ii) The daily planning period requirements set forth in § 6-17-114;

(iii) The committee on personnel policies requirements set forth in § 6-17-201 et seq.; and

(iv) Standards for accreditation set forth in the Arkansas Code, set forth by the Department of Education, or set forth by the state board.

(C) No limited public charter school may be allowed an exemption that would allow a full-time certified employee to be paid less than the salary provided in the public school district's salary schedule for that employee;

(2) Describe a plan for school improvement that addresses how the limited public charter school will improve student learning and meet the state education goals;

(3) Describe how the certified employees at the limited public charter school will be involved in developing and implementing the school improvement plan set forth in subdivision (b)(2) of this section and in identifying performance criteria;

(4) Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the limited public charter school in improving student learning and meeting or exceeding the state education goals; and

(5) Be reviewed as a regular agenda item and approved after sufficient public comment by the local school board and the state board.

(c)(1) Any application to obtain limited public charter school status approved by a local school board shall be forwarded by the local school board to the state board.

(2) If a local school board does not approve a public school's application, the local school board shall inform the applicants and faculty of the public school of the local school board's reasons for not approving the application.

(d)(1) A certified teacher employed by a public school in the school year immediately preceding the effective date of a limited public charter for a limited public charter school within that public school district may not be transferred to or be employed by the limited public charter school over the certified teacher's objections, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

(2) If the transfer of a teacher within a public school district is not possible because only one (1) public school exists for the teacher's certification level, then the local school board shall call for a vote of the certified teachers in the proposed limited public charter school site and proceed, at the local school board's option, with the limited public charter school application if a majority of the certified teachers approve the proposal.

(3)(A) A certified teacher choosing to join the staff of a limited public charter school shall be employed by the district by a written contract as set forth in § 6-13-620(4), with the contract being subject to the provisions of The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

(B)(i) The certified teacher shall also enter into a separate supplemental contract specifically for the teacher's employment in the limited public charter school, with the supplemental contract being

exempt from The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and from § 6-17-807.

(ii) Termination of the supplemental contract shall not be used as a basis to deny continued employment of the teacher within the public school district in another public school at a similar grade level.

(e)(1) Limited public charter schools shall be evaluated annually by the department based on criteria approved by the state board, including, but not limited to, student performance data in order to determine progress in student achievement that has been achieved by the limited public charter school.

(2) The department shall annually report its evaluation to the state board.

(3) Based upon that evaluation, the state board may revoke a limited public charter.

(f) The state board shall promulgate rules and regulations necessary for the implementation of this subchapter.

History. Acts 2001, No. 1311, § 9; 2005, No. 2005, § 12; 2007, No. 736, § 32.

Amendments. The 2005 amendment substituted “five (5) years” for “three (3) years” twice in (a)(3).

The 2007 amendment rewrote the section and changed the section heading accordingly.

CHAPTER 24

ETHICAL GUIDELINES AND PROHIBITIONS

SECTION.

- 6-24-101. General policy.
- 6-24-102. Definitions.
- 6-24-103. Compliance with other laws.
- 6-24-104. General prohibition.
- 6-24-105. School boards.
- 6-24-106. Administrators.
- 6-24-107. Employees.
- 6-24-108. Reimbursement of expenses.
- 6-24-109. Emergency purchases.
- 6-24-110. General ethical standards for nonemployees.
- 6-24-111. Restrictions on employment of present and former administrators.

SECTION.

- 6-24-112. Gratuities and kickbacks.
- 6-24-113. Awards and grants.
- 6-24-114. Administrative remedies applicable to administrators and employees.
- 6-24-115. Criminal penalties.
- 6-24-116. Request for review of transactions.
- 6-24-117. Board position vacant upon conviction.
- 6-24-118. Enforcement.
- 6-24-119. Rules and regulations.
- 6-24-120. Penalties.

Cross References. Ethics and Conflicts of Interest, § 21-8-101 et seq.

Effective Dates. Acts 2005, No. 1381, § 4: Mar. 30, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that public educational entities will need to have sufficient time to hire personnel necessary for the upcoming school

year; that public educational entities and employees need clarity in the law to ensure their ability to enter into contracts; and that this act is immediately necessary because public educational entities will be entering into employment contracts on May 1 for the 2005-2006 school year. Therefore, an emergency is declared to exist and this act being immediately nec-

essary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the

expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-24-101. General policy.

(a) It is the policy of the state to promote and balance the objective of protecting integrity and facilitating the recruitment and retention of personnel needed by public educational entities.

(b) All board members, administrators, and employees, as defined herein, shall carry out all official duties for the benefit of the people of the community and the State of Arkansas and shall abide by the provisions of this chapter.

(c) It is the specific intent of this chapter to prohibit self-dealing in transactions between public educational entities and board members, administrators, or employees.

History. Acts 2001, No. 1599, § 1.

6-24-102. Definitions.

Unless otherwise specifically stated in this subchapter, the term:

(1) "Administrator" means any superintendent or assistant superintendent or his or her equivalent, school district treasurer, business manager, or other individual directly responsible for entity-wide purchasing;

(2) "Board" means a local school board or other governing body of a public educational entity;

(3) "Board member" means any board member, director, or other member of a governing body of a public educational entity;

(4) "Board of Education" means the State Board of Education;

(5) "Commissioner" means the Commissioner of Education or his or her designee;

(6) "Commodities" means all supplies, goods, material, equipment, computers, software, machinery, facilities, personal property, and services, other than personal and professional services, purchased for or on behalf of a public educational entity;

(7) "Contract" means any transaction or agreement for the purchase, lease, transfer, or use of real property or personal property and personal or professional services of an independent contractor, including, but not limited to, motor vehicles, equipment, commodities, materials, services, computers or other electronics, construction, capital improvements, deposits, and investments;

(8) "Directly" or "directly interested" means receiving compensation or other benefits personally or to a business or other entity in which the individual has a financial interest or receives other benefits;

(9) “Emergency purchase” means purchases mandated by unforeseen and unavoidable circumstances in which human life, health, or public property is in immediate jeopardy and the expenditure is necessary to preserve life, health, or public property;

(10) “Employee” means a full-time employee or part-time employee of a public educational entity;

(11) “Employment contract” means an agreement or contract between an employer and an employee in which the terms and conditions of the employment are provided;

(12) “Family” or “family members” means:

(A) An individual’s spouse;

(B) Children of the individual or children of the individual’s spouse;

(C) The spouse of a child of the individual or the spouse of a child of the individual’s spouse;

(D) Parents of the individual or parents of the individual’s spouse;

(E) Brothers and sisters of the individual or brothers and sisters of the individual’s spouse;

(F) Anyone living or residing in the same residence or household with the individual or in the same residence or household with the individual’s spouse; or

(G) Anyone acting or serving as an agent of the individual or as an agent of the individual’s spouse;

(13)(A) “Financial interest” in a business or other entity means:

(i) Ownership of more than a five percent (5%) interest;

(ii) Holding a position as an officer, director, trustee, partner, or other top level management; or

(iii) Being an employee, agent, independent contractor, or having any other arrangement in which the individual’s compensation is based in whole or in part on transactions with the public educational entity.

(B) “Financial interest” does not include:

(i) The ownership of stock or other equity holdings in any publicly held company; or

(ii) Clerical or other similar hourly compensated employees;

(14) “Gratuity” means a payment, loan, subscription, advance, deposit of money, travel, services, or anything having a present market value of one hundred dollars (\$100) or more unless consideration of substantially equal or greater value is received;

(15) “Indirectly” or “indirectly interested” means that a family member, business, or other entity in which the individual or a family member has a financial interest will receive compensation or benefits;

(16) “Initially employed” means:

(A) Employed in either an interim or permanent position for the first time or following a severance in employment with the school district; or

(B) A change in the terms and conditions of an existing contract, excluding:

- (i) Any renewal of a teacher contract under § 6-17-1506;
- (ii) Renewal of a noncertified employee's contract that is required by law; or
- (iii) Movement of an employee on the salary schedule that does not require board action.

(17)(A) "Public educational entity" means Arkansas public school districts, charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(B) "Public educational entity" does not include institutions of higher education.

History. Acts 2001, No. 1599, § 2; 2005, No. 1381, § 1; 2007, No. 617, § 30.

A.C.R.C. Notes. Acts 2005, No. 1381, § 3, provided: "The provisions of this act shall be applicable to any employment contract entered into with a public educational entity on February 21, 2005, and thereafter."

Amendments. The 2005 amendment inserted "of an independent contractor" in (7); inserted "or receives other benefits" in (8); inserted present (11) and (16) and redesignated the remaining subdivisions accordingly; inserted "children of the individual's" in present (12)(B); substituted "The spouse ... individual's" for "A child's"

in (12)(C); substituted "parents of the individual's spouse" for "the spouse" in (12)(D); inserted "or brothers and sisters of the individual's" in (12)(E); substituted "in the same residence or household with the individual's spouse" for "the spouse" in (12)(F); inserted "or as an agent ... spouse" in (12)(G); and, in present (15), substituted "family member, business, or" for "receiving compensation or other benefits personally, for a family member, or for a business or" and inserted "will receive compensation or benefits."

The 2007 amendment substituted "education service cooperatives" for "educational cooperatives" in (17)(A).

6-24-103. Compliance with other laws.

Nothing in this chapter alters or diminishes other statutory or regulatory requirements regarding purchasing, contracting, bidding, disposition of property, or other transactions with public educational entities.

History. Acts 2001, No. 1599, § 3.

6-24-104. General prohibition.

(a) No board member, administrator, or employee shall knowingly use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or others.

(b) While serving as a board member, administrator, or employee, an individual shall not accept employment, contract, or engage in any public or professional activity that a reasonable person would expect might require or induce him or her to disclose any information acquired by the member by reason of his or her official position that is declared by law or regulation to be confidential.

(c) No board member, administrator, or employee shall knowingly disclose any confidential information gained by reason of his or her

position, nor shall the member knowingly otherwise use such information for his or her personal gain or benefit.

(d) Nothing in this chapter prohibits board members, administrators, or employees of public educational entities from donating services or property to a public educational entity.

History. Acts 2001, No. 1599, § 4.

6-24-105. School boards.

(a) **GENERAL PROHIBITION.** Except as otherwise provided, it is a breach of the ethical standards of this chapter for a board member to contract with the public educational entity the member serves if the board member has knowledge that he or she is directly or indirectly interested in the contract.

(b) **EMPLOYMENT OF FAMILY MEMBERS.**

(1)(A)(i) A board member's family member may not be initially employed by the public educational entity the member serves during the member's tenure of service on the local board for compensation in excess of five thousand dollars (\$5,000) unless the Commissioner of Education issues a letter of exemption and approves the employment contract based on unusual and limited circumstances.

(ii) The determination of unusual and limited circumstances shall be at the sole discretion of the commissioner and may be further defined by rule of the State Board of Education.

(B) A family member of a school board member who was employed by the public educational entity during the school year immediately preceding the election of the board member may continue employment with the public educational entity under the same terms and conditions of the previously executed contract and any renewal of the contract under § 6-17-1506.

(C) Subject to the local board's written policy, a qualified family member of a board member may be employed as a substitute teacher, substitute cafeteria worker, or substitute bus driver for a period of time not to exceed a total of thirty (30) days per fiscal year for the public educational entity served by the board member.

(2)(A)(i) No employment contract that is prohibited under subsection (b) of this section is valid or enforceable by any party to the employment contract until approved in writing by the commissioner.

(ii) The commissioner's approval of an employment contract may include restrictions and limitations that are by this subsection incorporated as terms or conditions of the contract.

(B) Excluding any renewal of a contract under § 6-17-1506, any change in the terms or conditions of an employment contract, a promotion, or a change in employment status for a family member of a school board member employed by a public educational entity that will result in an increase in compensation of more than two thousand five hundred dollars (\$2,500) must be approved in writing by the commissioner before any change in the terms or conditions of the

employment contract or promotion or changes in employment status are effective, valid, or enforceable.

(c) EXCEPTIONS.

(1) BOARD APPROVAL.

(A)(i) In unusual and limited circumstances, a public educational entity's board may approve a contract, but not an employment contract, between the public educational entity and the board member or the member's family if the board determines that the contract is in the best interest of the public educational entity.

(ii) In unusual and limited circumstances, a public educational entity's board may approve an employment contract as provided in this section.

(B) The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract or employment contract in an open meeting. The resolution shall state the unusual and limited circumstances necessitating the contract or employment contract and shall document the restrictions and limitations of the contract or employment contract.

(C) If any proposed contract or employment contract is with a family member of a board member or a board member directly or indirectly interested in the proposed contract or employment contract, then the board member shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

(2) INDEPENDENT APPROVAL.

(A) If it appears the total transactions or contracts with the board member or a family member for a fiscal year total, or will total, five thousand dollars (\$5,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the resolution along with all relevant data to the commissioner for independent review and approval. The resolution and other relevant data shall be furnished by certified mail with return receipt requested or other method approved by the state board to assure adequate notice of receipt by the Department of Education and to provide a record for the school sending the approval request.

(B)(i) Upon review of the submitted data for any contract, including an employment contract as provided in subsection (b) of this section, the commissioner within ten (10) days of receipt of the resolution and other relevant data shall approve or disapprove in writing the board's request.

(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data are needed for a proper determination, the commissioner shall approve or disapprove the contract within ten (10) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the ten-day period or request additional time or data for

a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval. The commissioner may grant the approval for a particular transaction or contract, a series of related transactions or contracts, or employment contracts. However, no approval shall be granted for a period greater than two (2) years, excluding employment contracts.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(d) RECORDS. The department and the public educational entity shall maintain a record and copy of all documentation relating to transactions or contracts with board members or members of their families.

(e) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any board member or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

History. Acts 2001, No. 1599, § 5; 2005, No. 1381, § 2.

A.C.R.C. Notes. Acts 2005, No. 1381, § 3, provided: "The provisions of this act shall be applicable to any employment contract entered into with a public educational entity on February 7, 2005, and thereafter."

Amendments. The 2005 amendment rewrote (b); redesignated former (c)(1)(A) as present (c)(1)(A)(i); inserted "but not an employment contract" in (c)(1)(A)(i); added (c)(1)(A)(ii); in (c)(1)(B), inserted "or

employment contract" three times and "and limited"; in (c)(1)(C), substituted "If any ... board member or a" for "Any" and inserted "or employment contract, then the board member"; inserted "or contracts" in (c)(2)(A) and (d); inserted "for any contract ... subsection (b)" in (c)(2)(B)(i); and, in (c)(2)(C), substituted "or contract ... employment contracts" for "or a series of related transactions" in the second sentence and inserted "excluding employment contracts" in the last sentence.

6-24-106. Administrators.

(a) GENERAL PROHIBITION.

(1) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with the public educational entity employing him or her if the administrator has knowledge that he or she is directly or indirectly interested in the contract.

(2) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with any public educational entity if the administrator has knowledge that he or she is directly interested in the contract.

(b) FAMILY MEMBERS AS EMPLOYEES. This chapter does not prohibit an administrator's family members from being employed by the public

educational entity the administrator serves or any other public educational entity. However, beginning July 1, 2002, a member of an administrator's immediate family or former spouse may not be initially employed as a disbursing officer of the public educational entity where the administrator is employed unless the public educational entity receives written approval from the Commissioner of Education. Before issuing a written approval or denial, the commissioner shall request the Division of Legislative Audit to review the internal controls, including the segregation of duties, present at the public educational entity. The Division of Legislative Audit shall report its findings in writing to the commissioner.

(c) EXCEPTIONS.

(1) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator may contract with a public educational entity other than the public educational entity employing him or her.

(2) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator's family members may contract with a public educational entity employing the administrator.

(3) An administrator seeking to contract with other public educational entities, or an administrator's family member seeking to contract with the public educational entity employing the administrator, shall first present the request, with all relevant facts and circumstances justifying approval, to the board currently employing the administrator at an open meeting. After reviewing the request in an open meeting, the board may, by written resolution, approve the contract subject to approval by the commissioner. A copy of the approval resolution and all relevant data shall be forwarded by the board president to the commissioner.

(4)(A) Upon review of the submitted data, the commissioner shall, within ten (10) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(B) The commissioner may request additional information or testimony before ruling on a request. If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within ten (10) days of receipt of the additional requested data.

(C) If the commissioner does not respond to the public educational entity within the ten-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(5) If approved, the approval letter shall state all relevant facts and circumstances considered in the approval and shall state any restrictions or limitations of the approval. The commissioner may grant an approval for a particular transaction or a series of related transactions. No approval shall be granted for a period greater than two (2) years.

(6) The Department of Education and the public educational entity shall maintain a record and copy of all documentation relating to an exemption from the provisions of this chapter.

(7) No contract subject to this provision shall be valid until approved by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(d) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any administrator knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) "CONTRACT DEFINED". For the purposes of this section, "contract" does not apply to employment contracts issued to an administrator of a public educational entity for administrative or other duties such as, but not limited to, teaching, bus driving, or sponsorship of clubs or activities.

(f) COMPENSATION FOR OFFICIATING ATHLETIC EVENTS. Nothing in this section prohibits administrators from receiving compensation for officiating school-sponsored athletic activities with any public educational entity.

(g) COMPENSATION FOR CONDUCTING SEMINARS. Nothing in this section prohibits administrators from receiving compensation for conducting seminars for, or making presentations to, public educational entities other than the public educational entity employing them.

History. Acts 2001, No. 1599, § 6.

6-24-107. Employees.

(a) GENERAL PROVISION. Except as otherwise provided, it is a breach of the ethical standards of this chapter for an employee to contract with the public educational entity employing him or her if the employee has knowledge that he or she is directly interested in the contract.

(b) EXCEPTIONS.

(1) APPROVAL BY BOARD.

(A) In unusual and limited circumstances, a public educational entity's board may approve a contract between the public educational entity and an employee if the board determines that the contract is in the best interest of the public educational entity.

(B) The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract in an open meeting. The resolution shall state the unusual circumstances necessitating the contract and shall document the restrictions and limitations of the contract.

(C) Any board member directly or indirectly interested in the proposed contract shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

(2) INDEPENDENT APPROVAL.

(A) If it appears that the total transactions with an employee for a fiscal year total, or will total, five thousand dollars (\$5,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the resolution along with all relevant data to the Commissioner of Education for independent review and approval. The resolution and other relevant data shall be furnished by certified mail with return receipt requested or other method approved by the State Board of Education to assure adequate notice of receipt by the Department of Education and to provide a record for the school sending the approval request.

(B)(i) Upon review of the submitted data, the commissioner shall, within ten (10) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within ten (10) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the ten-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval. The commissioner may grant the approval for a particular transaction or a series of related transactions. However, no approval shall be granted for a period greater than two (2) years.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(c) DOCUMENTATION. The department and the public educational entity shall maintain a record and copy of all documentation relating to transactions with employees.

(d) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any employee or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) "CONTRACT" DEFINED. For the purposes of this section, the term "contract" does not apply to employment contracts issued to public educational entity employees or other transactions for the performance of teaching or other related duties such as, but not limited to, bus driving, sponsorship of clubs or activities, or working at school sponsored events.

(f) **TECHNOLOGY EMPLOYEES.** All transactions involving the purchase, lease, acquisition, or other use of computers, software, copiers, or other electronic devices from family members of an employee responsible for establishing specifications or approving purchases of such equipment shall be approved according to the requirements of this section regarding the purchase from an employee with a direct interest in the transaction.

History. Acts 2001, No. 1599, § 7.

6-24-108. Reimbursement of expenses.

Nothing in this chapter prevents board members, administrators, or employees from being reimbursed by the appropriate public educational entity for necessary and documented travel or other job-related expenses.

History. Acts 2001, No. 1599, § 8.

6-24-109. Emergency purchases.

(a) The provisions of this chapter do not apply to emergency purchases.

(b) Emergency purchases shall only be used for the preservation of life, health, or public property, and shall not be used to substantially improve the condition of an asset prior to the emergency.

(c) Each public educational entity shall maintain records and copies of all documentation relating to and supporting a determination that transactions qualify as emergency purchases.

(d) Any person using emergency purchases to avoid the intent of this chapter shall be guilty of violating the provisions of this chapter.

History. Acts 2001, No. 1599, § 9.

6-24-110. General ethical standards for nonemployees.

Any effort by a nonemployee to influence any public educational entity board member, administrator, or employee to breach the standards of ethical conduct stated in this chapter is a breach of ethical standards and punishable under the criminal penalties set forth in this chapter.

History. Acts 2001, No. 1599, § 10.

6-24-111. Restrictions on employment of present and former administrators.

(a)(1) Unless written approval is granted by the Commissioner of Education, it is a breach of the ethical standards of this chapter for administrators to be or become the employee, agent, or independent

contractor of any party contracting with the public educational entity the administrators serve.

(2) The commissioner’s approval letter shall be filed with and maintained by the public educational entity employing the administrator.

(b) Unless written approval is granted by the commissioner, it is a breach of the ethical standards of this chapter for administrators to engage in selling or attempting to sell commodities or services to the public educational entity they served or were employed by for one (1) year following the date employment or service ceased.

History. Acts 2001, No. 1599, § 11.

6-24-112. Gratuities and kickbacks.

(a) It is a breach of the ethical standards for any person to offer, give, or agree to give any board member, administrator, or employee a gratuity or an offer of employment in connection with any contract or transaction of a public educational entity.

(b) It is a breach of the ethical standards for any board member, administrator, or employee to solicit, demand, accept, or agree to accept from another person or entity a gratuity or an offer of employment in connection with any contract or transaction of a public educational entity.

(c) It is a breach of the ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a person or an entity as an inducement for the award of a contract or transaction with a public educational entity.

(d) The State Board of Education shall issue specific rules and regulations regarding educational or work-related travel, conventions, seminars, and other benefits provided by vendors.

History. Acts 2001, No. 1599, § 12.

6-24-113. Awards and grants.

Nothing in this chapter prohibits administrators or employees of public educational entities from receiving monetary or other awards, grants, or benefits from entities generally recognized as providing benefits based upon exceptional skills or exemplary contributions to education.

History. Acts 2001, No. 1599, § 13.

6-24-114. Administrative remedies applicable to administrators and employees.

(a)(1) The Department of Education may review alleged violations of this chapter. If the department reviews the allegations and the Commissioner of Education determines that there is adequate evidence of a

violation, the commissioner may refer the allegations to the State Board of Education for review.

(2) Upon the state board's approval to review the alleged violation and after reasonable notice in writing to all parties, the state board may schedule a hearing to determine whether an administrator or employee has knowingly violated the provisions of this chapter.

(3) After presentation of all evidence, if the state board determines that the administrator or employee knowingly violated the provisions of this chapter, the state board may provide any or all of the following administrative remedies:

(A) Issue a letter of reprimand; or

(B) Suspend or revoke the administrator's or teacher's Arkansas teaching license for a definite period, or permanently.

(b) After reasonable notice and opportunity for a hearing, a board of a public educational entity may take appropriate administrative remedies against an administrator or employee that has allegedly violated the provisions of this chapter. If an administrator or employee of a public educational entity is charged by the prosecuting attorney for a possible violation of this chapter, the public educational entity's board may, after reasonable notice and opportunity for a hearing, place the individual charged on leave, with or without pay, dismiss the individual, or provide any other proper administrative remedy. If the individual is dismissed by the board due to charges being filed for an alleged violation of this chapter, any employment contracts with the public educational entity shall be deemed void from the date of the action of the board.

History. Acts 2001, No. 1599, § 14.

6-24-115. Criminal penalties.

(a) Any board member, administrator, employee, or nonemployee who shall knowingly violate the provisions of this chapter shall be guilty of a felony.

(b)(1) Upon pleading guilty or nolo contendere to or being found guilty of violating this chapter, the court shall order restitution to the public educational entity.

(2) In addition, the court may fine the violator in any sum not to exceed the greater of ten thousand dollars (\$10,000) or double the dollar amounts involved in the transactions, sentence the violator to prison for not more than five (5) years, or impose both a fine and imprisonment.

History. Acts 2001, No. 1599, § 15.

6-24-116. Request for review of transactions.

At the request of a board of a public educational entity, the executive administrator at a public educational entity, the Commissioner of Education, or the Legislative Joint Auditing Committee, the appropri-

ate prosecuting attorney shall review contracts or transactions for compliance with the provisions of this chapter.

History. Acts 2001, No. 1599, § 16;
2003, No. 670, § 1.

6-24-117. Board position vacant upon conviction.

If a board member is found guilty of violating the provisions of this chapter, the board member shall immediately cease to be a board member, the position is declared vacant, and a replacement shall be named as provided by law.

History. Acts 2001, No. 1599, § 17.

6-24-118. Enforcement.

(a) It shall be the duty and responsibility of the prosecuting attorneys to supervise compliance with this chapter and prosecute persons who violate the chapter.

(b) If the prosecuting attorney fails or refuses to enforce this chapter when the facts are known by the prosecuting attorney, or are called to his or her attention, the Attorney General or any citizen of this state may bring mandamus proceedings to compel the prosecuting attorney to perform his or her duties.

(c) All criminal actions related to alleged violations of this chapter shall be filed in circuit court and shall be subject to the criminal rules and procedures of this state.

History. Acts 2001, No. 1599, § 18.

6-24-119. Rules and regulations.

In order to administer the provisions of this chapter, the State Board of Education shall adopt rules and regulations consistent with the provisions and intent of this chapter.

History. Acts 2001, No. 1599, § 19.

6-24-120. Penalties.

(a) Any board member, administrator, employee, or nonemployee of a public school district, education service cooperative, or public charter school who knowingly and intentionally violates the provisions of § 6-13-620(b) [repealed], § 6-13-620(c) [repealed], § 6-17-301(c), § 6-17-301(d), or § 6-20-1201(b) shall be guilty of an unclassified misdemeanor and subject to a fine in the amount of one thousand dollars (\$1,000).

(b) Any board member of a public school district, education service cooperative, or public charter school who shall knowingly and intentionally violate the provisions of § 6-13-620(b) [repealed], § 6-13-620(c)

[repealed], § 6-17-301(c), § 6-17-301(d), or § 6-20-1201(b) be subject to removal from office under § 6-13-612.

History. Acts 2003, No. 1738, § 6; 2007, No. 617, § 31.

A.C.R.C. Notes. Acts 2007, No. 1573, § 45, repealed § 6-13-620(b) and (c).

Amendments. The 2007 amendment substituted “education service” for “educational” in (a) and (b).

CHAPTER 25

PUBLIC SCHOOL LIBRARY MEDIA AND TECHNOLOGY ACT

SECTION.

6-25-101. Legislative intent.

6-25-102. Title.

6-25-103. Library media services program.

6-25-104. Library media specialist.

SECTION.

6-25-105. Establishment of guidelines for the selection, removal, and retention of materials.

6-25-106. Provision of resources.

6-25-101. Legislative intent.

(a) It is the intent of the General Assembly to articulate the functions served by each of the components of a school library media services program.

(b) The General Assembly is committed to the development and improvement of strong library media programs in all schools.

(c) It is the intent of the General Assembly that library media specialists be given time to fulfill their responsibilities under this subchapter.

History. Acts 2003, No. 1786, § 1.

6-25-102. Title.

This subchapter shall be known and may be cited as the “Public School Library Media and Technology Act”.

History. Acts 2003, No. 1786, § 2.

6-25-103. Library media services program.

(a) A “library media services program” means a program of information and media services in schools delivered by a library media specialist whose job includes duties as:

(1) An information specialist whose primary job function is to:

(A) Provide resources available to patrons through a systematically developed collection within the school and through access to resources outside the school;

(B) Provide assistance to patrons in identifying, locating, and interpreting information housed in and outside the library media center;

(C) Provide learning opportunities related to new technologies, use, and production of a variety of media formats; and

(D)(i) Provide instruction in the use of the library media center.

(ii) Elementary class sessions for a library media specialist shall be limited as provided under subdivision (b)(1) of this section;

(2) An instructional consultant whose primary job function is to:

(A) Participate in building district, department, and grade-level curriculum development and assessment projects;

(B) Provide professional development in new and emerging technologies, use of appropriate technologies, incorporation of technology into the instructional program, and in the laws and policies pertaining to the use and communication of ideas and information, including copyright law; and

(C) Keep patrons informed of new acquisitions of software and hardware and instruct patrons in their optimal use; and

(3) A teacher of information and technology skills whose primary job function is to:

(A) Provide assistance in the use of technology to access information and networks that will enhance access to resources;

(B) Develop and implement a plan that ensures that skills are taught in a logical sequence for kindergarten through grade twelve (K-12);

(C) Provide expertise and instruction in the use of electronic retrieval systems such as electronic card catalogues and computer-generated bibliographies; and

(D) Provide instruction in the use of the library media center.

(b)(1) No less than one-third ($\frac{1}{3}$) of the library media specialist's time shall be spent as an information specialist, allowing time for administrative tasks such as ordering books and materials, processing items for usage, planning finances and accountability, organizing, directing, and evaluating the library media program, and other management duties.

(2) Class size shall be as set forth in the Standards for Accreditation of Arkansas Public Schools and School Districts.

History. Acts 2003, No. 1786, § 3; 2005, No. 1962, § 13.

Amendments. The 2005 amendment added "and" at the end of (a)(1)(C); red-

igned former (a)(1)(E) as present (a)(1)(D)(ii); deleted "and" at the end of present (a)(1)(D)(i); and made related punctuation changes.

6-25-104. Library media specialist.

(a)(1) Only trained and certified library media services program personnel shall be assigned to carry out duties of the library media specialist.

(2) Library media clerks may carry out clerical duties supervised by the library media specialist.

(b) Duties that interfere with library media center responsibilities may not be assigned outside the library media center for the library media specialist.

(c) Equipment and personnel shall be available for the developmentally appropriate production of a wide range of media for students and faculty.

History. Acts 2003, No. 1786, § 4.

6-25-105. Establishment of guidelines for the selection, removal, and retention of materials.

(a) Media centers shall have written policies to establish guidelines for the selection, removal, and retention of materials.

(b) The school district shall have a written policy for addressing challenged material.

History. Acts 2003, No. 1786, § 5.

6-25-106. Provision of resources.

The school media collection should provide resources that contribute to lifelong learning while accommodating a wide range of differences in instructional methods, interest, and capabilities.

History. Acts 2003, No. 1786, § 6.

CHAPTER 26

ARKANSAS TEACHER HOUSING DEVELOPMENT ACT

SUBCHAPTER

1. GENERAL PROVISIONS.
2. BOARD OF TRUSTEES OF THE ARKANSAS TEACHER HOUSING DEVELOPMENT FOUNDATION.
3. TEACHER HOUSING DEVELOPMENT REQUIREMENTS.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 39, § 3: Jan. 15, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has ruled that the current system of education in Arkansas is inadequate and inequitable and has instructed the General Assembly to define what is necessary to provide an adequate and equitable education for the children of Arkansas which shall include as a basic component additional support for teacher recruitment in what has historically been called 'low-performing school districts'; that the term 'low-performing school districts' is very negative and the terminology must be immediately changed to 'high-priority school districts' to focus on the state's priority to give these school districts, their students, and their teach-

ers more assistance with education; that high-priority school districts need housing incentives to attract high-performing teachers; that this act is necessary to attract high-performing teachers to high-priority school districts to effectuate the Arkansas Supreme Court's order that requires the state to provide an equal opportunity for an adequate education to every public school child. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

SUBCHAPTER 1 — GENERAL PROVISIONS**SECTION.**

6-26-101. Title.

6-26-102. Definitions.

6-26-103. Arkansas Teacher Housing Development Foundation.

SECTION.

6-26-104. Purpose.

6-26-101. Title.

This chapter shall be known and may be cited as the “Arkansas Teacher Housing Development Act”.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

6-26-102. Definitions.

As used in this chapter:

(1) “Board” means the Board of Trustees of the Arkansas Teacher Housing Development Foundation;

(2) “Department” means the Department of Education;

(3) “Director” means the Director of the Arkansas Teacher Housing Development Foundation;

(4)(A) “Eligible home” means the primary residence of a high-performing teacher that is located within thirty (30) miles of a high-priority school district.

(B) “Eligible home” shall not include any dwelling with a purchase price of more than one hundred thousand dollars (\$100,000);

(5) “Foundation” means the Arkansas Teacher Housing Development Foundation;

(6) “High-performing school district” means a school district in the State of Arkansas that has fifty percent (50%) or more of its students performing above proficient on all benchmark examinations;

(7) “High-performing teacher” means a certified teacher who meets one (1) of the following criteria:

(A) Is currently employed at a high-performing school district as a classroom teacher and has three (3) years or more of experience teaching in the subject area that the high-priority school district is seeking;

(B)(i) Is not currently employed at a high-performing school district but in the past has taught at a high-performing school district for a minimum of three (3) years, obtains three (3) letters of recommendations from the high-performing school district at which the teacher has taught in the past that verifies the teacher’s effectiveness as a classroom teacher, and explains in a sworn statement as to the reasons why he or she is currently not employed as a classroom teacher in a high-performing school district.

(ii) The three (3) letters of recommendation shall be provided by any of the following:

(a) A principal who supervised and evaluated the teacher when he or she taught at a school in the high-performing school district;

(b) An assistant principal who supervised and evaluated the teacher when he or she taught at a school in the high-performing school district;

(c) The superintendent of the high-performing school district; or

(d) Any other school official at the high-performing school district with knowledge of the teacher's performance during employment at the high-performing school district, including anyone with access to the teacher's personnel file or evaluations; or

(C)(i) Is currently employed at a high-priority school district as a classroom teacher and:

(ii)(a) Has three (3) years or more experience teaching in the subject area at the high-priority school district, has demonstrated the ability to successfully teach children in the high-priority school district, and obtains three (3) letters of recommendations from the high-priority school district at which the teacher is currently teaching that verifies the teacher's effectiveness as a classroom teacher.

(b) The three (3) letters of recommendation shall be provided by any of the following:

(1) The classroom teacher's current immediate supervisor;

(2) The current principal at the classroom teacher's school;

(3) An assistant principal who supervises and evaluates the classroom teacher;

(4) The superintendent of the school district where the classroom teacher teaches; or

(5) Any other school official at the high-priority school district where the classroom teacher currently teaches with knowledge of the classroom teacher's performance, including anyone with access to the classroom teacher's personnel file, evaluations, or student test scores;

(8) "High-priority school district" means a school district that meets the following criteria:

(A) It has had difficulty recruiting and retaining high-performing teachers for any kindergarten through grade twelve (K-12);

(B) It has a critical shortage of teachers qualified to teach for any kindergarten through grade twelve (K-12); and

(C) It has fifty percent (50%) or more students in the district performing below proficient on any or all benchmark examinations; and

(9) "State board" means the State Board of Education.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

6-26-103. Arkansas Teacher Housing Development Foundation.

There is established a foundation to be known as the Arkansas Teacher Housing Development Foundation.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

6-26-104. Purpose.

The purpose of the Arkansas Teacher Housing Development Foundation is:

- (1) To develop or to facilitate the development of affordable housing for high-performing teachers in high-priority school districts; and
- (2) To provide housing incentives to encourage high-performing teachers to move to high-priority school districts.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

SUBCHAPTER 2 — BOARD OF TRUSTEES OF THE ARKANSAS TEACHER HOUSING DEVELOPMENT FOUNDATION

SECTION.

6-26-201. Creation.

6-26-202. Duties.

Effective Dates. Acts 2005, No. 2044, § 6: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of

the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005."

6-26-201. Creation.

(a) The Arkansas Teacher Housing Development Foundation shall be operated and controlled by a board of trustees that consists of nine (9) members as follows:

(1) Three (3) members appointed by the President Pro Tempore of the Senate as follows:

(A) One (1) person selected from a list of no fewer than ten (10) names submitted by the Arkansas Education Association;

(B) One (1) person who is selected from a list of no fewer than ten (10) names submitted by the Arkansas State Chamber of Commerce and the Associated Industries of Arkansas; and

(C) One (1) person who has a minimum of ten (10) years' experience in housing development or fundraising;

(2) Three (3) members appointed by the Speaker of the House of Representatives as follows:

(A) One (1) person selected from a list of no fewer than ten (10) names submitted by the Arkansas Education Association;

(B) One (1) person who is selected from a list of no fewer than ten (10) names submitted by the Arkansas State Chamber of Commerce and the Associated Industries of Arkansas; and

(C) One (1) person who has a minimum of ten (10) years' experience in housing development or fundraising;

(3) The President of the Arkansas Chapter of the National Association of Minority Contractors, or his or her designee;

(4) The President of the Arkansas Development Finance Authority, or his or her designee; and

(5) The Executive Director of the Arkansas Teacher Retirement System, or his or her designee.

(b) The appointed board members shall be residents of the State of Arkansas at the time of appointment and throughout their terms.

(c) Appointments to the board shall be for a term of four (4) years.

(d)(1) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled by appointment by the official that made the appointment.

(2) The new appointee shall serve for the remainder of the unexpired term.

(e) The members shall determine by majority vote who shall serve as chair.

(f)(1) The foundation shall meet at such times and places that the chair deems necessary, but no meetings shall be held outside the State of Arkansas.

(2) Five (5) of the members of the board shall constitute a quorum for the purpose of transacting business.

(3) All actions of the board shall be by a quorum.

(g) All members of the board may receive expense reimbursement in accordance with § 25-16-902 to be paid by the Arkansas Teacher Housing Development Foundation.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2005, No. 2044, § 3.

A.C.R.C. Notes. As enacted, this section contained additional language which read: "(c)(1) All appointments shall be made no later than thirty (30) days after the effective date of this chapter."

"(2) If any entity fails to submit a list within fifteen (15) days from the effective date of this chapter, the appointing official who did not receive a list may make an appointment from the state at large."

"(d)(1) Except for initial appointments, the appointments to the committee shall be for a term of four (4) years."

"(2) For initial appointments, the members shall draw lots to determine the length of their terms as follows:"

"(A) Three (3) members shall have terms of two (2) years;

"(B) Three (3) members shall have terms of three (3) years; and

"(C) Three (3) members shall have a term four (4) years."

"(g)(2) The chairperson shall call an organizational meeting no fewer than thirty (30) days after all of the members are appointed."

Amendments. The 2005 amendment rewrote (g).

6-26-202. Duties.

(a) The Board of Trustees of the Arkansas Teacher Housing Development Foundation shall elect annually a chair, a secretary, and other officers as the board deems appropriate.

(b)(1) The board shall employ a director who is charged with the management and control of the Arkansas Teacher Housing Development Foundation.

(2)(A) The director shall have the following qualifications:

- (i) A bachelor's degree from an accredited four-year university;
- (ii) At least five (5) years' management experience; and
- (iii) At least seven (7) years' experience in any of the following areas:

- (a) Fundraising for nonprofit organizations;
- (b) Sales or marketing; or
- (c) Governmental relations.

(B) Three (3) of the five (5) years' management experience may be substituted by any of the following:

(i) A master's degree in business administration from an accredited university;

(ii) A doctor of philosophy degree in education from an accredited university; or

(iii) A juris doctorate degree from an accredited law school.

(c)(1) The board shall meet at least four (4) times a year.

(2) The chair is authorized to call special meetings of the board as needed upon two (2) days' written notice to the members.

(3) Any three (3) board members are authorized to call special meetings of the board upon two (2) days' written notice to the members.

(d) The primary objectives of the board shall be as follows:

(1) To determine which school districts in the state fall under the definitions in this chapter for the following:

(A) High-priority school district; and

(B) High-performing school district;

(2) To implement housing incentive programs under this chapter;

(3) To develop new housing incentive programs for high-priority school districts;

(4) To recommend legislation to improve housing incentive programs for high-priority school districts;

(5) To obtain private and public sources of funding for housing incentive programs for high-priority school districts; and

(6)(A) To make recommendations to the Department of Education and the State Board of Education regarding housing incentive programs for high-priority school districts.

(B) The department and the state board shall provide the information and assistance necessary for the board to perform its duties under this chapter.

(e)(1) The board may enter into agreements with other state agencies or entities to develop, fund, implement, or administer the programs in this chapter, including, but not limited to the:

- (A) Department of Education;
- (B) State Board of Education;
- (C) Arkansas Development Finance Authority; and
- (D) Arkansas Teacher Retirement System.

(2) The board may contract with private entities to assist with the development, funding, implementation, and administration of the programs in this chapter.

(f) The board shall promulgate rules with respect to this chapter and prescribe the forms and procedures for compliance with the rules.

(g)(1) The board or its designee may:

(A) Accept any gifts, grants, bequests, devises, and donations made to the State of Arkansas for the purpose of funding the Teacher Housing Fund and the programs created under this chapter; and

(B) Deposit any gifts, grants, bequests, devises, and donations so received into the fund.

(2) The board or its designee shall quarterly certify to the Treasurer of State the amount contributed to the fund through private or public sources.

(3) The gifts, grants, bequests, devises, and donations made under this chapter shall be used together with any other funds appropriated or acquired for funding the fund.

(h) The director or his or her designee shall provide an annual report by October 1 of each year to the Chair of the Senate Interim Committee on Education and the Chair of the House Interim Committee on Education. The report shall contain the following information:

(1) A list of the school districts which are high-priority school districts, as determined by the board;

(2) A list of the school districts which are high-performing school districts, as determined by the board;

(3) Current housing incentives that are offered to high-performing teachers who choose to teach in high-priority school districts;

(4) The funding available and the sources for funding for housing incentives for high-priority school districts;

(5) The number of recipients of housing incentives provided under this chapter; and

(6) The list of high-performing teachers who have pending applications for housing benefits under this chapter.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

SUBCHAPTER 3 — TEACHER HOUSING DEVELOPMENT REQUIREMENTS

SECTION.

6-26-301. Housing incentives for high-priority school districts.

6-26-302. Home loan program.

6-26-303. Pilot rental housing program.

SECTION.

6-26-304. Development of the pilot rental housing program.

6-26-305. Teacher Housing Fund.

6-26-301. Housing incentives for high-priority school districts.

(a) The following housing incentives shall be provided to high-performing teachers who choose to teach in high-priority school districts:

- (1) A home loan program; and
- (2) A pilot rental housing program.

(b) A high-performing teacher who receives benefits under this chapter shall commit to teach for a minimum of five (5) years in a high-priority school district.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

A.C.R.C. Notes. As enacted, subsection (a) began: "Beginning July 1, 2004, the."

6-26-302. Home loan program.

(a) The Board of Trustees of the Arkansas Teacher Housing Development Foundation shall develop, implement, and administer a home loan program to provide special home loan financing to high-performing teachers who choose to teach in high-priority school districts.

(b)(1) To the extent allowed by the available loan programs or funding, the following financing options shall be included in the home loan program:

(A) A conventional mortgage available for the purchase of an eligible home, at an interest rate not to exceed six percent (6%) for a thirty-year loan;

(B) A second mortgage, not to exceed twenty percent (20%) of the total cost of an eligible home and at an interest rate not to exceed four percent (4%); and

(C)(i) A forgivable loan equal to not more than ten percent (10%) of the total cost of an eligible home, which is intended as assistance with the down payment.

(ii) The forgivable loan shall be interest free if the high-performing teacher fulfills his or her obligation with the high-priority school district.

(iii) The high-performing teacher shall receive one-fifth ($\frac{1}{5}$) credit on the forgivable loan for each year that he or she teaches in the high-priority school district.

(2)(A) The Director of the Arkansas Teacher Housing Development Foundation shall provide a report to the House Interim Committee on Education and the Senate Interim Committee on Education as to whether the loan program as provided in this section has been and is being provided to high-performing teachers or whether the loan program has been modified due to the available loan programs or funding during any calendar year.

(B)(i) The report shall include the following:

- (a) Data on the terms of each loan provided under this section; and
- (b) Any other data that is necessary for the House Interim Committee on Education and the Senate Interim Committee on Education to assess the effectiveness of the loan program.

(ii) The report shall clearly indicate which loans provided under this section meet the requirements of this section and which loans have been modified due to the available loan programs or funding.

(c)(1) A high-performing teacher who chooses to teach in a high-priority school district has the option of using all or part of the financing options available under this section.

(2) A high-performing teacher who chooses to teach in a high-priority school district may exercise the right to the financing options available under this section for a maximum of five (5) years after choosing to teach in a high-priority school district.

(d)(1) If the high-performing teacher stops teaching in the high-priority school district for any reason within five (5) years after exercising an option for a conventional mortgage or second mortgage under this section, then the remaining balance on the conventional mortgage or second mortgage shall become due and payable within three (3) months of the termination of the high-performing teacher's service to the high-priority school district.

(2)(A) If the high-performing teacher stops teaching in the high-priority school district for any reason within five (5) years after exercising an option for a forgivable loan under this section, then the remaining balance on the forgivable loan shall become due and payable within three (3) months of the termination of the high-performing teacher's service to the high-priority school district.

(B) The board may develop a supplemental loan program that converts the forgivable loan into a conventional loan for high-performing teachers who do not fulfill their obligation.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

6-26-303. Pilot rental housing program.

(a) A pilot rental housing program shall be developed, implemented, and administered by the Board of Trustees of the Arkansas Teacher Housing Development Foundation in four (4) high-priority school districts in the state, one (1) in each congressional district of the state.

(b)(1) The rental housing units shall be provided to high-performing teachers who choose to teach in high-priority school districts.

(2) Only upon the approval of the board and only if the housing is not able to be used by high-performing teachers in a high-priority school district, the developer may lease to the following persons in order of preference:

(A) Other certified staff of the high-priority school district;

(B) Other noncertified staff of the high-priority school district; or

(C) Any other person with a gross income of thirty-five thousand dollars (\$35,000) or less.

(3)(A) The Director of the Arkansas Teacher Housing Development Foundation shall provide a report to the House Interim Committee on Education and the Senate Interim Committee on Education as to

whether the pilot rental housing program as provided in this section has been and is being provided to high-performing teachers or whether the pilot rental housing program has been modified due to the available loan programs or funding during any calendar year.

(B)(i) The report shall include the following:

(a) Data on the terms of each pilot rental housing program developed under this subchapter; and

(b) Any other data that is necessary for the House Interim Committee on Education and the Senate Interim Committee on Education to assess the effectiveness of the pilot rental housing program.

(ii) The report shall clearly indicate whether the pilot rental housing that has been developed meets the requirements of this subchapter and shall provide details on any modification of the pilot rental housing due to the available loan programs or funding.

(c) The reduced rate shall be at least fifty percent (50%) less than the fair rental value of the rental housing unit.

(d) To the extent allowed by the available loan programs or funding, the rental housing units offered shall include two (2) of the following sizes, to be determined based on the expected demand by high-performing teachers who will likely be attracted to the high-priority school district:

(1) A two-bedroom unit with one (1) bathroom and a minimum of eight hundred square feet (800 sq. ft.);

(2) A three-bedroom unit with two (2) bathrooms and a minimum of twelve hundred square feet (1200 sq. ft.); or

(3) A four-bedroom unit with two and one-half (2½) bathrooms and a minimum of fifteen hundred square feet (1500 sq. ft.).

(e) To the extent allowed by the available loan programs or funding, the rental housing offered shall:

(1) Include all of the following new or late model, fully-functioning appliances:

(A) Refrigerator with ice maker;

(B) Stove and oven;

(C) Microwave oven;

(D) Dishwasher;

(E) Full-sized washer and dryer; and

(F) Central heat and air conditioning;

(2) Be constructed to meet or exceed the local building and fire codes;

(3) Be constructed to be energy efficient; and

(4)(A) If the pilot rental housing program is only serving one (1) school district, then be located no farther than three (3) miles beyond the high-priority school district boundaries at which the high-performing teachers are being hired.

(B) If the pilot rental housing program is serving two (2) or more school districts, then be located no farther than twenty (20) miles from any of the school districts using the housing.

(f)(1) Temporary rental housing may be provided to high-performing teachers during the time that new rental housing units are being constructed or existing rental housing units are being remodeled.

(2) Temporary rental housing does not have to meet the requirements of this section.

(3) If the high-performing teacher is required to remain in temporary rental housing for more than one (1) year, the high-performing teacher can choose any of the following to compensate him or her for the lesser rental housing units provided:

(A) A cash supplement of not less than twelve hundred dollars (\$1,200) per year that the teacher is required to live in the temporary rental housing and not more than the difference between the fair rental value of the rental housing unit that is required under this section and the temporary rental housing unit that is provided; or

(B) An additional interest-free, forgivable loan for the purchase of a home under § 6-26-302 for not more than two thousand five hundred dollars (\$2,500) to be forgiven after the fulfillment of one (1) year of service from the date that the loan is disbursed.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

6-26-304. Development of the pilot rental housing program.

(a) The Arkansas Teacher Housing Development Foundation or its designee shall receive proposals from developers for the construction of the rental housing units.

(b)(1) The Director of the Arkansas Teacher Housing Development Foundation shall recommend to the Board of Trustees of the Arkansas Teacher Housing Development Foundation which developer shall construct the rental housing units in each congressional district.

(2) The board shall either approve or reject the director's recommendations for the developer of the rental housing units.

(3) If the board rejects any of the director's recommendations, then the director shall recommend another developer that submitted a proposal.

(4) This process shall continue until a developer is approved by the board for each of the four (4) congressional districts.

(c) A preference shall be given to proposals submitted by developers located in the congressional district of the high-priority school district, but this preference shall not be the single determining factor.

(d) The foundation or its designee shall provide low-interest loans to the selected developers in the amount necessary to construct rental housing units to meet the housing needs for the expected number of high-priority teachers attracted to the area that will choose rental housing units.

(e)(1) Upon completion of the construction of the rental housing units, the developer shall operate the rental housing units until the loan is repaid.

(2) The developer and the foundation shall agree on the amount necessary to compensate the developer for the fair rental value of the rental housing units, considering the amount of rent the teacher is paying.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

6-26-305. Teacher Housing Fund.

(a) All moneys received by the Arkansas Teacher Housing Development Foundation shall be deposited into one (1) or more accounts at a financial institution located in the State of Arkansas and shall be known as the Teacher Housing Fund.

(b) The fund shall be treated as a cash fund under § 19-4-801 et seq.

(c) The moneys in the fund are declared to be revenues of the state and shall be expended only by the foundation and only for the purposes stated in this chapter.

(d) The foundation shall promulgate all rules necessary for implementing the program under this chapter and administering the fund.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

CHAPTERS 27-39

[Reserved]

SUBTITLE 3. SPECIAL EDUCATIONAL PROGRAMS

CHAPTER 40

GENERAL PROVISIONS

[Reserved]

CHAPTER 41

CHILDREN WITH DISABILITIES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. CHILDREN WITH DISABILITIES ACT.
3. SPECIAL EDUCATION PROGRAMS GENERALLY.
4. IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS.
5. TASK FORCE ON MEDICALLY FRAGILE, CHRONICALLY ILL, OR TECHNOLOGY-DEPENDENT STUDENTS.

Cross References. Early intervention program for infants and toddlers, § 20-14-501 et seq.

Handicapped infants, early intervention program, § 20-14-501 et seq.

RESEARCH REFERENCES

A.L.R. Educational placement of handicapped children. 23 A.L.R.4th 740.

Tort liability of public school or government agency for misclassification or wrongful placement of student in special education program. 33 A.L.R.4th 1166.

Ark. L. Rev. Note, "Appropriate Education" for Handicapped Children in the Eighth Circuit, 35 Ark. L. Rev. 519.

U. Ark. Little Rock L.J. Notes, Handicapped Law — Education For All Handicapped Children Act Does Not Require States To Provide Best Possible Option. Springdale School Dist. No. 50 v. Grace, 693 F.2d 41 (8th Cir. 1982), cert. denied, Springdale School Dist. v. Grace, 103 S. Ct. 2086, 461 U.S. 927, 77 L. Ed. 2d 298 (1983), 6 U. Ark. Little Rock L.J. 571.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

6-41-101. Services to children with disabilities in nonpublic schools.

6-41-102. Extended year program.

SECTION.

6-41-103. Identification of children with specific learning disabilities.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-41-101 and 6-41-102 may not apply to § 6-41-103 which was enacted subsequently.

Effective Dates. Acts 1983 (Ex. Sess.), No. 100, § 6: Nov. 9, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly, meeting in Extraordinary Session, that the Supreme Court has ruled unconstitutional the State's formula of distributing Minimum Foundation Aid from the Public School Fund to local school districts and that the continuation of state programs, grants and aids to these local school districts is essential and vital to all its citizens to prevent substantial loss to districts resulting from the new distribution formula. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval."

Acts 1985, No. 706, § 14: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness

of this Act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1987, No. 1048, § 19: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1987 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1987 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby de-

clared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1987.”

6-41-101. Services to children with disabilities in nonpublic schools.

(a) Prior to expending any funding for new programs for children with disabilities that include funding for evaluation, counseling, assessment, personnel, equipment, or other capital outlay in other than public schools, the Department of Workforce Education shall publish a public notice of the intent to provide additional special services to the disabled, specifying the services in the public notice, and inviting organizations that are recognized by the state to provide education, assessment, jobs skills training, or vocational education to children with disabilities to submit proposals to provide the additional special services.

(b) The department may award one (1) or more contracts to any organization that can fulfill the goals and objectives of the program, or the department may assume responsibility for implementing the program.

History. Acts 1987, No. 1048, § 12; 1993, No. 294, § 14; 1999, No. 1323, § 25.

A.C.R.C. Notes. Former § 6-41-101, concerning services to handicapped chil-

dren in nonpublic schools, is deemed to be superseded by this section. The former section was derived from Acts 1985, No. 706, § 10; A.S.A. 1947, § 80-2144.

6-41-102. Extended year program.

The extended year program for school-age children with disabilities shall be established and implemented by school districts as established by the individualized education program of the child during the summer at the close of each school year.

History. Acts 1983 (Ex. Sess.), No. 100, § 4; A.S.A. 1947, § 80-2145; Acts 1993, No. 294, § 14; 1999, No. 391, § 22.

6-41-103. Identification of children with specific learning disabilities.

(a) As used in this section, the term “specific learning disability” means a disorder in one (1) or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems that are primarily the result of visual, hearing, or motor handicaps, of mental retardation, or of environmental, cultural, or economic disadvantage.

(b) It is the intent of the General Assembly to identify children with specific learning disabilities and to provide training for teachers encountering children with these problems in the regular classroom. The intent is not to increase the identification of students in special education, but rather to increase the ability of teachers to meet the needs of these students in the regular classroom.

(c)(1) The Department of Education shall develop an in-service program to train teachers in the recognition of children with specific learning disabilities and in teaching strategies for those students.

(2) Districts are required to keep on file in their school district a plan for implementing the recognition of children with specific learning disabilities and for incorporating teaching strategies for those students in the regular classroom.

(d) The department shall adopt rules and regulations requiring all public schools in the state to identify all children with specific learning disabilities.

History. Acts 1991, No. 338, §§ 1-4.

A.C.R.C. Notes. References to "this subchapter" in §§ 6-41-101 and 6-41-102

may not apply to this section which was enacted subsequently.

SUBCHAPTER 2 — CHILDREN WITH DISABILITIES ACT

SECTION.

- 6-41-201. Title.
- 6-41-202. Purposes and applicability.
- 6-41-203. Definitions.
- 6-41-204. Least restrictive environment.
- 6-41-205. Provision for education.
- 6-41-206. Responsibilities of state and school districts.
- 6-41-207. Duties of the State Board of Education.
- 6-41-208. Contracts for services.
- 6-41-209. Cooperation among state agencies.
- 6-41-210. Special Education Section for children with disabilities.
- 6-41-211. Advisory Council for the Education of Children with Disabilities.
- 6-41-212. Facilities.

SECTION.

- 6-41-213. [Repealed.]
- 6-41-214. Eligibility.
- 6-41-215. Tests and examinations —
Evaluation of child.
- 6-41-216. Tests and evaluations —
Change of child's status —
Hearings.
- 6-41-217. Individualized education program.
- 6-41-218. Tests and evaluations —
Records.
- 6-41-219. Tests and evaluations — Children in private schools.
- 6-41-220. Equality in expenditure.
- 6-41-221. Receipt and disbursement of federal funds.
- 6-41-222. [Repealed.]
- 6-41-223. Reports.

Effective Dates. Acts 1973, No. 102, §§ 28, 29: July 1, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is essential to promote the public policy of this state to provide adequate education opportunities for all young people in this state, including handicapped children, that the provisions of this Act take effect

on July 1, 1973; that due to the unusual workload on the Sixty-Ninth General Assembly it may be necessary to extend the session which could delay the effective date of this Act beyond July 1, 1973 unless an emergency is declared as authorized in Amendment 7 to the Constitution of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being

necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval." Approved Feb. 12, 1973.

Acts 2005, No. 1426, § 7: Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that the programs established in this act are derived

from recommendations of the joint committee and are part of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that this program must be implemented immediately for the good of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Streett, The Individuals with Disabilities Education Act, 19 U. Ark. Little Rock L.J. 35.

6-41-201. Title.

This subchapter shall be known as the "Children With Disabilities Act of 1973".

History. Acts 1973, No. 102, § 1; A.S.A. 1947, § 80-2115; Acts 1993, No. 294, § 14.

6-41-202. Purposes and applicability.

(a)(1) It is the policy of this state to provide and to require school districts to provide, as an integral part of the public schools, a free appropriate public education for students with disabilities.

(2) The State Board of Education is expressly authorized to assign responsibility for providing free appropriate public education of any child with a disability to an appropriate school district.

(b) The provisions of this section shall apply to all political subdivisions of the state that are involved in the education of children with disabilities, including without limitation the state educational agency, local educational agencies, educational service agencies, public charter schools that are not otherwise included as local educational agencies or educational service agencies and are not a school of a local educational agency or educational service agency, other state agencies and schools, including without limitation the Department of Mental Health and

Welfare and state schools for children with deafness or children with blindness, and state and local juvenile and adult correction facilities.

(c) The provisions of this section shall be binding on each public agency in the state that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

(d) Each public agency in the state is responsible for ensuring that the rights and protections under Part B of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., are given to children with disabilities referred to or placed in private schools and facilities by that public agency or placed in private schools by their parents under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

(e) The state educational agency is responsible for ensuring that the requirements of this section are carried out and that each educational program for children with disabilities administered within the state, including without limitation each program administered by any other state or local agency, is under the general supervision of the persons responsible for educational programs for children with disabilities in the state educational agency and meets the educational standards of the state educational agency, including without limitation the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

History. Acts 1973, No. 102, §§ 2, 17; 1979, No. 1055, § 1; A.S.A. 1947, §§ 80-2116, 80-2131; Acts 1989, No. 703, § 1; 1993, No. 294, § 14; 2005, No. 2151, § 27; 2007, No. 1573, § 34.

A.C.R.C. Notes. The reference in this section to the “Department of Mental Health and Welfare” may be referring to the Division of Behavioral Health Services of the Department of Human Services.

Amendments. The 2005 amendment, in (b)(2), deleted “fully” following “cooperate” and substituted “educational interest” for “best interests.”

The 2007 amendment substituted “Purposes and applicability” for “Policy and purposes” in the section heading; added the (a)(1) and (2) designations; rewrote (b); added (c) through (e); and made related and stylistic changes.

6-41-203. Definitions.

As used in this subchapter:

(1) “A child with a disability” means a person between three (3) and twenty-one (21) years of age evaluated in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as having mental retardation, a hearing impairment including without limitation deafness, a speech or language impairment, a visual impairment including without limitation blindness, a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, other health impairments, a specific learning disability, deaf-blindness, or multiple disabilities and who, by reason thereof, needs special education and related services;

(2) “Board” means the State Board of Education; and

(3)(A) “Special education” means specially designed instruction at no cost to the parents to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, in other settings, and instruction in physical education.

(B) Special education includes each of the following, if the services otherwise meet the requirements of this definition:

(i) Speech-language pathology services or any other related service if the service is considered special education rather than a related service under state standards;

(ii) Travel training; and

(iii) Vocational education.

History. Acts 1973, No. 102, §§ 2, 10, 11; 1975, No. 641, § 4; 1979, No. 1055, § 1; A.S.A. 1947, §§ 80-2116, 80-2124, 80-2125; Acts 1989, No. 943, § 1; 1991, No. 204, § 1; 1991, No. 823, § 1; 1993, No. 294, § 14; 1999, No. 391, §§ 23, 24; 2007, No. 1573, § 35.

Amendments. The 2007 amendment

deleted “unless the context otherwise requires” in the introductory language; and rewrote (1) and (3).

U.S. Code. The Individuals with Disabilities Education Act, referred to in this section, is primarily codified as 20 U.S.C. § 1400 et seq.

6-41-204. Least restrictive environment.

(a) Each public agency shall ensure that:

(1) To the maximum extent appropriate, a child with a disability, including a child in a public or private institution or other care facility, is educated with children who are nondisabled; and

(2) Special classes, separate schooling, or other removal of a child with a disability from the regular educational environment may occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) The state funding mechanism shall not:

(1) Result in placements that violate the requirements of subsection (a) of this section; or

(2) Distribute funds on the basis of the type of setting in which a child is served in a manner that results in the failure to provide a child with a disability free appropriate public education according to the unique needs of the child with a disability, as described in the child’s individualized education program.

History. Acts 1973, No. 102, § 4; A.S.A. 1947, § 80-2118; Acts 1993, No. 294, § 14; 2007, No. 1573, § 36.

Amendments. The 2007 amendment

substituted “Least restrictive environment” for “Separate schooling” in the section heading; and rewrote the section.

6-41-205. Provision for education.

The State Board of Education shall provide or cause to be provided by school districts, or in some cases by other departments of state government, by institutions, or by private facilities, all regular and special education, corrective, and supporting services required by children with disabilities to the end that they shall receive the benefits of a free and appropriate public education.

History. Acts 1973, No. 102, § 3; A.S.A. 1947, § 80-2117; Acts 1993, No. 294, § 14; 1999, No. 391, § 25.

6-41-206. Responsibilities of state and school districts.

(a)(1) The responsibility of school districts and the state to provide free public education for children with disabilities is not diminished by the availability of private schools and services.

(2) Whenever private schools and services are utilized, it continues to be the responsibility of the appropriate local school district and the State Board of Education to assure an appropriate quantity and quality of instructional and related services, to assure the protection of all other rights, and to ascertain that all children with disabilities receive the educational and related services and rights to which the law of this state entitles them.

(b) It shall be the responsibility of the local school district and the state to provide a free and appropriate public education based upon the individualized education program developed for the child.

History. Acts 1973, No. 102, § 9; 1975, No. 641, § 3; A.S.A. 1947, § 80-2123; Acts 1989, No. 703, §§ 2, 3; 1993, No. 294, § 14; 1999, No. 391, § 26; 2007, No. 1573, § 37.

Amendments. The 2007 amendment deleted former (c).

6-41-207. Duties of the State Board of Education.

(a) The State Board of Education is empowered to initiate, inspect, approve, and supervise a program of education for children with disabilities as defined in this subchapter.

(b) It is also designated as the agency for cooperation with the state and federal governments, the approved treatment centers, the institutions, and the local schools in carrying out the provisions of this subchapter.

(c) The board shall make the necessary rules and regulations in keeping with the provisions of this subchapter and shall employ the necessary personnel for the proper administration of this subchapter if funds are made available for this purpose.

(d) The board shall have authority to require such reports as it deems advisable so long as the requirements are in keeping with this subchapter.

(e) The board, in keeping with federal requirements, is designated as the agency having general educational supervision over public agencies which provide educational services to children with disabilities as defined in this subchapter to ensure that each public agency complies with state and federal regulations pursuant to the education of children with disabilities.

(f) The board, in compliance with federal enforcement requirements, is authorized to disallow the generation of all state aid to children with disabilities to any local school district or education service cooperative that fails to comply with state and federal regulations, as determined by independent hearing officers, agency hearing decisions, agency complaint investigation decisions, agency compliance monitoring reports, or agency jurisdictional decisions. The board is authorized to set aside funds disallowed under this subsection (b) and to utilize such funds for the provision of a free and appropriate public education to appropriate children with disabilities.

History. Acts 1973, No. 102, §§ 14, 24; A.S.A. 1947, §§ 80-2128, 80-2138; Acts 1989, No. 703, § 4; 1993, No. 294, § 14.

6-41-208. Contracts for services.

(a) The State Board of Education is granted authorization to contract primarily for appraisal and support services with the Department of Human Services, physicians, or other individuals or organizations that, in the opinion of the board, possess the necessary expertise to warrant a contract.

(b) In the event of contract, fees paid by the board may not exceed the amounts that would be paid by a private individual for those services.

History. Acts 1973, No. 102, § 6; 1975, No. 641, § 10; A.S.A. 1947, § 80-2120.

6-41-209. Cooperation among state agencies.

The State Board of Education is granted authority to and is directed to cooperate with the Department of Human Services and with available treatment institutions and qualified individuals in order to provide diagnostic services to children with disabilities in need of such services.

History. Acts 1973, No. 102, § 13; 1975, No. 641, § 5; A.S.A. 1947, § 80-2127; Acts 1993, No. 294, § 14.

6-41-210. Special Education Section for children with disabilities.

(a) There is established in the Department of Education a Special Education Section.

(b) The section shall be headed by an associate director, who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the department relating to children with disabilities.

(c) Implementation of this section shall be dependent upon funds being made available to the department for this purpose.

History. Acts 1973, No. 102, § 12; A.S.A. 1947, § 80-2126; Acts 1993, No. 294, § 14.

6-41-211. Advisory Council for the Education of Children with Disabilities.

(a)(1) There shall be an Advisory Council for the Education of Children with Disabilities, which shall advise and consult with the Commissioner of Education and the Associate Director of the Special Education Section of the Department of Education and which shall engage in such other activities as are set forth in this section.

(2) The advisory council shall be advisory only and shall have no administrative responsibility or authority.

(b)(1) The advisory council shall be composed of individuals involved in, or concerned with, the education of children with disabilities, including:

(A) Parents of persons from birth to twenty-six (26) years of age with disabilities;

(B) Individuals with disabilities;

(C) Teachers;

(D) Representatives of institutions of higher education that prepare special education and related services personnel;

(E) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq.;

(F) Administrators of programs for children with disabilities;

(G) Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;

(H) Representatives of private schools and public charter schools;

(I) Not fewer than one (1) representative of a vocational, community, or business organization concerned with the provision of transitional services to children with disabilities;

(J) Representatives from the state juvenile and adult corrections agencies; and

(K) A representative from the Arkansas child welfare agency responsible for foster care.

(2) A majority of the members of the panel shall be individuals with disabilities or parents of persons from birth to twenty-six (26) years of age with disabilities.

(c)(1) The commissioner shall appoint the members of the advisory council for three-year terms.

- (2) Appointees may be eligible for reappointment for one (1) term.
- (d) Vacancies which leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.
- (e) The advisory council shall elect annually its own chair and vice chair.
- (f) The associate director shall meet with and act as secretary to the advisory council and, subject to the availability of personnel, facilities, and appropriations, shall furnish meeting facilities and staff services for the advisory council.
- (g) The advisory council shall:
 - (1) Advise the Department of Education of unmet needs within the state in the education of children with disabilities;
 - (2) Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;
 - (3) Advise the department in developing evaluations and reporting on data to the Secretary of Education under 20 U.S.C. § 1418;
 - (4) Advise the department in developing corrective action plans to address findings identified in federal monitoring reports under this part; and
 - (5) Advise the department in developing and implementing policies relating to the coordination of services for children with disabilities.

History. Acts 1973, No. 102, § 15; 1975, No. 641, § 6; A.S.A. 1947, § 80-2129; Acts 1993, No. 294, § 14; 1995, No. 1296, § 30; 1999, No. 391, §§ 27, 28; 2005, No. 2151, § 28.

Publisher's Notes. The terms of the members of the Advisory Council for the Education of Children with Disabilities are arranged so that three (3) terms expire every year.

Amendments. The 2005 amendment

substituted "persons from birth to age twenty-six (26)" for "children" in (b)(1)(A) and (b)(2); added "including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq." at the end of (b)(1)(E); substituted "Not fewer than one" for "One" in (b)(1)(I); added (b)(1)(K); and made minor stylistic changes.

6-41-212. Facilities.

(a) Physical aspects and specifications for buildings, classrooms, and other facilities for, or likely to be used by, children with disabilities shall be approved by the Division of Public School Academic Facilities and Transportation or a designee.

(b) The division or a designee of the division is required to review plans for public school construction or remodeling that are designed for children with disabilities to ensure accessibility and usefulness for that purpose.

History. Acts 1973, No. 102, § 7; A.S.A. 1947, § 80-2121; Acts 1993, No. 294, § 14; 1999, No. 391, § 29; 2005, No. 1426, § 5.

Amendments. The 2005 amendment

substituted "the Division of Public School Academic Facilities and Transportation or a designee" for "a designee of the State Board of Education" in (a); and substi-

tuted "The division or a designee of the division" for "A designee of the board" in (b).

6-41-213. [Repealed.]

Publisher's Notes. This section, concerning the Special Education Materials Center, was repealed by Acts 1999, No.

391, § 30. The section was derived from Acts 1973, No. 102, § 23; A.S.A. 1947, § 80-2137.

6-41-214. Eligibility.

Specific eligibility requirements for admission to these special services shall be the responsibility of the State Board of Education.

History. Acts 1973, No. 102, § 5; 1975, No. 641, § 1; A.S.A. 1947, § 80-2119; Acts 2007, No. 1573, § 38.

Amendments. The 2007 amendment repealed former (b) and (c).

6-41-215. Tests and examinations — Evaluation of child.

(a) Every school district shall test and examine, or cause to be tested and examined, each child it believes has disabilities.

(b) The tests and examinations shall be administered in accordance with rules and regulations of the State Board of Education.

(c) The evaluation shall be made by a multidisciplinary team or group of persons, including at least one (1) teacher or other specialist with knowledge in the area of suspected disability.

(d) The child shall be assessed in all areas related to the suspected disability, including, when appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(e) No single procedure shall be used as the sole criterion for determining an appropriate educational program for a child.

History. Acts 1973, No. 102, § 19; A.S.A. 1947, § 80-2133; Acts 1993, No. 1975, No. 641, § 7; 1979, No. 1055, § 2; 294, § 14.
1981, No. 829, § 1; 1983, No. 762, § 1;

6-41-216. Tests and evaluations — Change of child's status — Hearings.

(a) All decisions pertaining to change in the educational status of a child shall follow due process procedures established by the State Board of Education.

(b) Due process shall include:

(1) Providing for prior notification to parents of testing and provision of special education services;

(2) The right to request educational evaluation and special education services; and

(3) The right to hearing and appeal of educational decisions.

(c)(1) The board shall prescribe rules and regulations governing hearings and appeals.

(2) Hearings shall be conducted by individuals referred to as "hearing officers" under this section.

(3)(A) The Special Education Section in the Department of Education shall establish standards and qualifications for individuals to serve as hearing officers.

(B) Neither an employee of the Department of Education nor an employee of the local school district involved in a particular hearing may serve as a hearing officer.

(C) Professional service contracts with individuals made for the purpose of compensating them for services rendered in connection with hearings shall not constitute employment.

(d) An individual serving as a qualified hearing officer at an assigned hearing shall be immune from civil suit brought by either party for the consequences of actions required of a hearing officer.

(e)(1) An individual serving as a qualified hearing officer under this section shall have the power to issue subpoenas and to bring before him or her as a witness any person in this state.

(2) The hearing officer shall issue a subpoena upon the request of any party to a pending proceeding.

(3) The writ shall be directed to the sheriff of the county where the witness resides or may be found.

(4) The writ may require the witness to bring with him or her any book, writing, or other thing under the witness's control that he or she is bound by law to produce in evidence.

(5) Service of the writ shall be in the manner as provided by law for the service of subpoenas in civil cases.

(f)(1) A witness who has been served by subpoena in the manner provided by law and who shall have been paid or tendered the legal fees for travel and attendance as provided by law shall be obligated to attend for examination of the trial of the cause pending before the state board.

(2) In the event that a witness has been served with subpoenas as provided under this section and fails to attend the hearing in obedience to the subpoena, the hearing officer may apply to the circuit court of the county in which the hearing officer is having the hearing for an order causing the arrest of the witness and directing that the witness be brought before the court.

(3) The court shall have the power to punish the disobedient witness for contempt as provided by law in the trial of civil cases.

(4) The disobedient witness shall be liable in damages for nonattendance to the trial or hearing as provided by law.

(g) Any party aggrieved by the findings and final decision made by the hearing officer shall have ninety (90) days from the date of the decision of the hearing officer to bring a civil action with respect to the complaint presented in either federal district court or a state court of competent jurisdiction pursuant to the Individuals with Disabilities

Education Act, as amended, without regard to the amount, if any, in controversy.

History. Acts 1973, No. 102, § 19; 1975, No. 641, § 7; 1979, No. 1055, § 2; 1981, No. 829, § 1; 1983, No. 762, § 1; A.S.A. 1947, § 80-2133; Acts 1995, No. 203, § 1; 1997, No. 369, § 1; 1997, No. 1182, § 1; 2003, No. 1365, § 1; 2005, No. 2151, § 29.

Amendments. The 2005 amendment substituted “Special Education Section of the Department of Education” for “board” in (c)(3)(A); in (g), inserted “final” and substituted “shall have ninety (90) days from the date of the decision of the hear-

ing officer to bring a civil action with respect to the complaint presented” for “has the right to bring a civil action” and “as amended, without regard to the amount, if any, in controversy” for “within three (3) years after the date on which the hearing officer’s final decision is rendered in the hearing”; and made minor stylistic and gender neutral changes.

U.S. Code. The federal Individuals with Disabilities Education Act, referred to in this section, is codified as 20 U.S.C. § 1400 et seq.

6-41-217. Individualized education program.

(a) Before any action is taken with respect to the initial placement of a child with disabilities in a special education program, a full and individual evaluation of the child’s educational needs must be conducted.

(b)(1) Prior to placement in special education services, each child must have an individualized education program.

(2) The term “individualized education program” or “IEP” means a written statement for each child with disabilities that is developed, reviewed, and revised in accordance with the requirements of the Individuals with Disabilities Education Act.

(3) The individualized education program shall include:

(A) A statement of the child’s present levels of academic achievement and functional performance, including:

(i) How the child’s disability affects the child’s involvement and progress in the general education curriculum;

(ii) For preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities; and

(iii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(B) A statement of measurable annual goals, including academic and functional goals, designed to:

(i) Meet the child’s needs that result from the child’s disability in order to enable the child to be involved in and to make progress in the general education curriculum; and

(ii) Meet each of the child’s other educational needs that result from the child’s disability;

(C) A description of how the child’s progress toward meeting the annual goals described in subdivision (b)(3)(B) of this section will be measured and when periodic reports will be provided on the progress the child is making toward meeting the annual goals, including, but

not limited to, the use of quarterly or other periodic reports, concurrent with the issuance of report cards;

(D) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and to make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and to participate with other children with disabilities and nondisabled children in the activities described in this section;

(E) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in this section;

(F)(i) A statement of any individual-appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on statewide and districtwide assessments consistent with the Individuals with Disabilities Education Act, regarding participation in assessments of students with disabilities in all general statewide and districtwide assessment programs.

(ii) If the individualized education program team determines that the child shall take an alternative assessment on a particular statewide or districtwide assessment of student achievement, a statement of why:

(a) The child cannot participate in the regular assessment; and

(b) The particular alternate assessment selected is appropriate for the child;

(G) The projected date for the beginning of the services and modifications described in this section, and the anticipated frequency, location, and duration of those services and modifications; and

(H)(i)(a) Beginning not later than the first individualized education plan to be in effect when the child is sixteen (16) years of age and updated annually thereafter, appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and when appropriate, independent living skills.

(b) The transition services, including courses of study, needed to assist the child in reaching those goals.

(ii) Beginning no later than one (1) year before the child reaches the age of majority under state law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under the Individuals with Disabilities Education Act.

(c) Nothing in this section shall be construed to require the individualized education program team to include information under one (1)

component of a child's individualized education program that is already contained under another component of such individualized education program.

History. Acts 1973, No. 102, § 19; 1983, No. 762, § 1; A.S.A. 1947, § 80-2133; Acts 1993, No. 294, § 14; 1999, No. 391, § 31; 2005, No. 2151, § 30.

Amendments. The 2005 amendment, in (b)(2), inserted "or 'IEP'" and substituted "that is developed, reviewed, and revised in accordance" for "developed in a meeting consistent"; substituted "academic achievement and functional" for "educational" in (b)(3)(A); inserted "education" in (b)(3)(A)(i), (b)(3)(B)(i) and (b)(3)(D)(ii); added (b)(3)(A)(iii), present

(b)(3)(C), and (c) and redesignated the remaining subdivisions accordingly; substituted "academic and functional goals, designed" for "benchmarks or short-term objectives, related" in (b)(3)(B); inserted "based on peer-reviewed research to the extent practicable" in present (b)(3)(D); rewrote present (b)(3)(F) and (b)(3)(H); and made minor stylistic changes.

U.S. Code. The Individuals with Disabilities Education Act, referred to in this section, is codified primarily as 20 U.S.C. § 1400 et seq.

6-41-218. Tests and evaluations — Records.

(a) Every public school district shall make and keep current a list of all children with disabilities tested and examined.

(b) The results of tests and examinations shall be confidential except that the parent or guardian and the child age eighteen (18) or over shall have access to the results, and physicians and other specialists may be given the results with the permission of the parent or guardian or child age eighteen (18) or over.

History. Acts 1973, No. 102, § 21; 1975, No. 641, § 8; A.S.A. 1947, § 80-2135; Acts 1993, No. 294, § 14.

6-41-219. Tests and evaluations — Children in private schools.

The requirements of §§ 6-41-215 — 6-41-217 shall not apply to children attending private schools on a mandatory basis but may apply on a voluntary basis.

History. Acts 1973, No. 102, § 20; A.S.A. 1947, § 80-2134.

6-41-220. Equality in expenditure.

(a)(1) It is the responsibility of school districts to expend effort on behalf of the education of each child with disabilities equal to the effort expended on account of the education of each child who does not have a disability.

(2) Any additional effort necessary to provide supplemental aids and services shall be the ultimate responsibility of the state but shall, to the maximum extent practicable, be the responsibility of the local school districts.

(b)(1) Two (2) or more school districts may join together to establish special classes for children with disabilities.

(2) In such event, one (1) school district shall be designated as the controlling agent, and all reimbursement for the education of children with disabilities from the State Board of Education shall be made to this school district.

(3) Local revenues or tuition from other districts participating in the cooperative will be paid to the controlling school district on an accepted prorated formula per child.

History. Acts 1973, No. 102, §§ 8, 18; 1975, No. 641, § 2; 1979, No. 1055, § 3; A.S.A. 1947, §§ 80-2122, 80-2132; Acts 1993, No. 294, § 14; 2007, No. 1573, § 39.

Amendments. The 2007 amendment

deleted former (b), and redesignated former (c) as present (b).

Cross References. Apportionment of education funds for children with disabilities and foster children, § 6-20-501 et seq.

6-41-221. Receipt and disbursement of federal funds.

(a)(1) The State Board of Education is designated as the state agency to receive and disburse federal funds designed to improve educational opportunities provided for children with disabilities as defined in this subchapter.

(2) The funds shall not include moneys appropriated by Congress that are designated specifically for use by other agencies, institutions, or treatment facilities for children with disabilities.

(b) The specific intention of this section is to provide that the board is designated as the state agency to receive and disburse federal and state funds made available to this state for education of children with disabilities, except as specifically provided for otherwise by Congress or the General Assembly, and no other interpretation shall be given to it.

(c)(1) It is declared to be the intent of the General Assembly that, of the state funds allocated and appropriated to the board for children with disabilities, the board is authorized to spend no more than two percent (2%) of the funds or appropriations, or both, for program costs necessary at the state level to implement the intent of this subchapter.

(2) The costs may include, but are not necessarily limited to, the programs or services benefitting children with disabilities such as consultative services, workshop expenses, institutional materials, council expenses, in-service programs, scholarships for teachers of children with disabilities, and testing programs.

(d) The board shall develop such plans and procedures as may be required in order to receive and disburse federal funds for children with disabilities.

History. Acts 1973, No. 102, §§ 16, 22; 1975, No. 641, § 9; A.S.A. 1947, §§ 80-2130, 80-2136; Acts 1993, No. 294, § 14.

6-41-222. [Repealed.]

Publisher's Notes. This section, concerning the payment of expenses to full-time state employees, was repealed by

Acts 1999, No. 391, § 32. The section was derived from Acts 1973, No. 102, § 25; A.S.A. 1947, § 80-2139.

6-41-223. Reports.

Each school district shall report annually to the State Board of Education at a prescribed due date the extent to which it is at that time providing for the special education for children with disabilities, as necessary to implement the policy of this subchapter.

History. Acts 1973, No. 102, § 17; A.S.A. 1947, § 80-2131; Acts 1993, No. 294, § 14.

SUBCHAPTER 3 — SPECIAL EDUCATION PROGRAMS GENERALLY

SECTION.

- 6-41-301. Purpose.
- 6-41-302. Definitions.
- 6-41-303. Powers and duties of the State Board of Education generally.
- 6-41-304. School districts — Procedures for participation in program.
- 6-41-305. Cooperation among school districts.
- 6-41-306. Classes in treatment institutions.

SECTION.

- 6-41-307. Appropriations.
- 6-41-308. [Repealed.]
- 6-41-309. Standards for instruction — Personnel qualifications.
- 6-41-310. Eligibility — Limitation.
- 6-41-311. [Repealed.]
- 6-41-312. Reports.
- 6-41-313. Contracts for services pursuant to federal law.

Cross References. Southern Regional Education Compact, § 6-4-101 et seq.

Effective Dates. Acts 1971, No. 39, § 15: Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that education of exceptional children in the public schools

of the state is vitally necessary. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in effect from the date of its passage and approval."

Acts 1999, No. 1078, § 92: July 1, 2000.

6-41-301. Purpose.

The purpose of this subchapter is to provide competent educational services for exceptional children of the state as defined in § 6-41-302 for whom the regular public school facilities are not available or are not adequate to meet the specialized needs of these students.

History. Acts 1971, No. 39, § 1; A.S.A. 1947, § 80-2101.

6-41-302. Definitions.

As used in this subchapter:

- (1) "Board" means the State Board of Education;

(2) "Exceptional children" means children with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbances (hereinafter referred to as "emotional disturbance"), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, who by reason thereof need special education and related services;

(3) "Special education class unit" is the number of pupils in attendance the major portion of a month in an approved organized special education class in a public school; and

(4) "Treatment institution" means a hospital or treatment center that has a population of school age children who are confined to the institution for medical reasons for long periods of time.

History. Acts 1971, No. 39, § 2; A.S.A. 1947, § 80-2102; Acts 1991, No. 823, § 2; 1999, No. 391, § 33.

CASE NOTES

Cited: Springdale Sch. Dist. v. Grace, 494 F. Supp. 266 (W.D. Ark. 1980).

6-41-303. Powers and duties of the State Board of Education generally.

(a) The State Board of Education is empowered to initiate, inspect, approve, and supervise a program of education for exceptional children.

(b) It is also designated as the agency for cooperation with the state and federal government, the approved treatment centers, and the local schools of Arkansas in carrying out the provisions of this subchapter.

(c) The board shall make the necessary rules and regulations in keeping with the provisions of this subchapter.

(d) The board shall employ the necessary personnel for the proper administration of this subchapter, contingent upon available funds for this purpose.

History. Acts 1971, No. 39, § 4; A.S.A. 1947, § 80-2104.

6-41-304. School districts — Procedures for participation in program.

(a)(1) All school districts in the state are eligible to make application for service and payment under this subchapter.

(2) A school district desiring to operate a special education program and planning to participate under the provisions of this subchapter will be allowed to make application with the State Board of Education on prescribed forms at a date prior to the opening of school.

(3) The approved application for a school district will serve as a contract between the school district and the board to supply the approved funds.

(4) There may be no mingling of these state funds with federal funds unless specifically provided for in the application.

(5) If for any reason the number of approved applications exceeds the available funds, the proration of funds to the school districts will be the responsibility and the authority of the state board.

(6) Payment for home or bedside instruction will be distributed according to rules and regulations established by the state board.

(b) In any school district where properly interested persons, agencies, parents, or guardians of five (5) or more of any one (1) type of exceptional child petition the school district school board of education for a special class, it shall be the duty of the school authorities to request the state board to cooperate in the establishment of such a class under the rules and regulations established for this purpose by the state board.

History. Acts 1971, No. 39, §§ 6, 7;
A.S.A. 1947, §§ 80-2106, 80-2107.

6-41-305. Cooperation among school districts.

(a)(1) Two (2) or more school districts may join together to establish a special class or classes.

(2) In such case, one (1) school district shall be designated as a controlling agent, and all reimbursement for the education of exceptional children from the State Board of Education will be made to this particular school district.

(3) Local revenues or tuition from other school districts participating in the cooperative will be paid to the controlling school district on an accepted prorated formula per child.

(b) In school districts in which there is not a sufficient number for the organization of a special class, exceptional children may be entered in special classes in any other school district on a plan acceptable to both school districts and the board.

History. Acts 1971, No. 39, § 7; A.S.A.
1947, § 80-2107.

6-41-306. Classes in treatment institutions.

(a) The State Board of Education may establish hospital and convalescent classes in approved treatment institutions and pay the cost of the educational programs thereof.

(b) The Treasurer of State and the board are authorized to pay to the treatment institution school the cost of the program of education agreed upon by the board and the governing board of the treatment institution school. However, no part of payment from this subchapter may be used to pay for school buildings, premises, or plants.

History. Acts 1971, No. 39, §§ 6, 10; A.S.A. 1947, §§ 80-2106, 80-2110.

6-41-307. Appropriations.

Appropriations made by the General Assembly for services provided in this subchapter may be used as follows:

- (1) As payments to school districts in keeping with approved applications;
- (2) As payments to treatment institutions in keeping with approved applications;
- (3) For the purchase of specialized materials and equipment; and
- (4) Allowances to school districts and treatment institutions for administration costs of the program.

History. Acts 1971, No. 39, § 5; A.S.A. 1947, § 80-2105.

6-41-308. [Repealed.]

Publisher's Notes. This section, concerning the schedule of payments, was repealed by Acts 1999, No. 391, § 34. The section was derived from Acts 1971, No. 39, § 5; A.S.A. 1947, § 80-2105.

6-41-309. Standards for instruction — Personnel qualifications.

- (a) Courses of study, teacher-pupil ratio, adequacy of methods of instruction, in-service training, qualifications of teachers, therapists, educational examiners, technicians, and necessary equipment for special education programs must comply with the requirements established by the State Board of Education.
- (b) School boards of the districts in which a special class is established are to employ all personnel according to the special qualifications and training prescribed by the state board.

History. Acts 1971, No. 39, § 8; A.S.A. 1947, § 80-2108.

6-41-310. Eligibility — Limitation.

- (a) Specific eligibility requirements for admission to these special services will be the responsibility of the board.
- (b) Eligibility for the services of this subchapter shall be limited to those students enrolled in the public schools or approved treatment institutions in the state.

History. Acts 1971, No. 39, § 3; A.S.A. 1947, § 80-2103.

6-41-311. [Repealed.]

Publisher's Notes. This section, concerning admissions and discharges, was repealed by Acts 1999, No. 391, § 35. The

section was derived from Acts 1971, No. 39, § 11; A.S.A. 1947, § 80-2111.

6-41-312. Reports.

(a) Local boards of education and treatment institutions shall keep an accurate account, in the manner and on the forms prescribed by the board, of all moneys expended for special education programs and shall report those expenditures to the State Board of Education.

(b) A report of the average daily attendance of all students enrolled, including pupils instructed by home teachers showing the number of hours devoted to such work, will be made to the Department of Education.

History. Acts 1971, No. 39, § 9; A.S.A. 1947, § 80-2109.

6-41-313. Contracts for services pursuant to federal law.

(a) The State Board of Education is authorized to contract with a school district and with the boards of other institutions under the control of a public board or commission for services to be provided for exceptional children as provided for in Title VI, Part B of Pub. L. 91-230 of 1965, as amended.

(b) School district boards of directors are authorized to contract for services for exceptional children residing in respective school districts or for services rendered in more than one (1) school district in a county if mutual agreements have been signed by the districts affected authorizing one (1) district to contract for two (2) or more school districts in a county.

History. Acts 1971, No. 39, §§ 12, 13; A.S.A. 1947, §§ 80-2112, 80-2113; Acts 1999, No. 1078, § 84.

Effective Dates. Acts 1999, No. 1078, § 92: July 1, 2000.

U.S. Code. Title VI, Part B of Public Law 91-230 of 1965, as amended, referred to in this section, is codified as 20 U.S.C. § 1411 et seq.

SUBCHAPTER 4 — IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS

SECTION.

6-41-401. Legislative findings.

6-41-402. Definitions.

6-41-403. Assessment of student progress.

SECTION.

6-41-404. Braille instruction.

6-41-405. Electronic textbooks.

6-41-406. Compliance required.

6-41-407. [Repealed.]

Publisher's Notes. Former subchapter 4, concerning the El Dorado Pilot Program for children with hearing defects, was repealed by Acts 1993, No. 294, § 15. The former subchapter was derived from the following sources:

6-41-401. Acts 1973, No. 582, § 1; A.S.A. 1947, § 80-2140.

6-41-402. Acts 1973, No. 582, § 1; A.S.A. 1947, § 80-2140.

6-41-403. Acts 1973, No. 582, § 2; A.S.A. 1947, § 80-2141.

6-41-404. Acts 1973, No. 582, § 2; A.S.A. 1947, § 80-2141.

6-41-405. Acts 1973, No. 582, § 2; A.S.A. 1947, § 80-2141.

6-41-406. Acts 1973, No. 582, § 3; A.S.A. 1947, § 80-2142.

6-41-407. Acts 1973, No. 582, § 4; A.S.A. 1947, § 80-2143.

6-41-401. Legislative findings.

The General Assembly finds that proficiency in braille reading and writing is essential for the satisfactory educational progress of visually impaired students and that braille instruction must be used in combination with other special education services that are appropriate to the educational needs of visually impaired students; therefore, it is hereby declared to be the policy of this state to provide, and to require school districts to provide, all visually impaired students who are enrolled in Arkansas public schools and whose education is adversely affected by their visual disability with an equal opportunity for appropriate instruction. Appropriate instruction shall be designed to enable each visually impaired student to communicate with the same level of proficiency as other students of comparable ability at the same grade level.

History. Acts 1993, No. 483, § 1.

6-41-402. Definitions.

As used in this subchapter:

- (1) "Compliance citation" means a citation issued by the Department of Education that documents a school's failure to comply with state education laws;
- (2) "Department" means the Department of Education; and
- (3) "Individualized education program" means the evaluation of the educational needs of a child with disabilities conducted pursuant to § 6-41-217.

History. Acts 1993, No. 483, § 2; 1995, No. 1296, § 31; 1999, No. 391, § 36.

6-41-403. Assessment of student progress.

(a) Each school district shall ensure that, at least one (1) time per year, a certified teacher of the visually impaired, or other qualified person as determined by the Department of Education, conducts an assessment of the educational progress of each visually impaired student enrolled in that school district identified as having or suspected

of having a disability pursuant to the Children with Disabilities Act of 1973, § 6-41-201 et seq. The assessment shall:

(1) Address the student's need for braille instruction, using procedures developed by the department, and specify the learning medium most appropriate for the student's educational progress;

(2) Identify the student's strengths and weaknesses in braille skills, when that medium is used for instruction; and

(3) Identify appropriate and necessary related services and technologies for use in combination with braille instruction.

(b) The results of the assessment shall be used to develop the student's individual educational plan.

History. Acts 1993, No. 483, § 3.

A.C.R.C. Notes. As originally enacted, Acts 1993, No. 483, § 3, also provided: "By July 1, 1995, the department shall de-

velop procedures to determine when a visually impaired student needs braille instruction."

6-41-404. Braille instruction.

Each student who needs braille reading and writing instruction shall receive instruction from either a certified teacher of the visually impaired or a person who is qualified in braille instruction as determined by the Department of Education.

History. Acts 1993, No. 483, § 4.

A.C.R.C. Notes. As originally enacted by Acts 1993, No. 483, § 4, also provided:

"The department shall no later than July 1, 1995 establish requirements to become qualified in braille instruction."

6-41-405. Electronic textbooks.

The Department of Education shall have the authority to require publishers of textbooks to furnish electronic media for the text portion of those textbooks required by visually impaired students. The electronic media shall be immediately capable of being electronically translated into braille or large print by computer or other electronic media. When braille code translation allows, publishers shall furnish electronic media for the nontextual portion of textbooks.

History. Acts 1993, No. 483, § 6.

A.C.R.C. Notes. As originally enacted, Acts 1993, No. 483, § 6, also provided: "The department shall no later than July 1, 1994 have made all necessary arrange-

ments for obtaining, producing, and distributing textbooks in braille or large print from electronic media obtained from textbook publishers as described in this act."

6-41-406. Compliance required.

Failure of a school district to come into compliance with the provisions of this subchapter shall be grounds for a compliance citation from the Department of Education.

History. Acts 1993, No. 483, § 7.

6-41-407. [Repealed.]

Publisher’s Notes. As to the repeal of this section, see Publisher’s Note at the beginning of this subchapter.

SUBCHAPTER 5 — TASK FORCE ON MEDICALLY FRAGILE, CHRONICALLY ILL, OR TECHNOLOGY-DEPENDENT STUDENTS

SECTION.

6-41-501. Task force established.

6-41-502. Duties — Policy and procedures.

SECTION.

6-41-503. Duties — Rules and regulations.

6-41-504. Report.

Effective Dates. Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on Education; that this act so provides; and that this act should go into effect immedi-

ately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

6-41-501. Task force established.

(a) The Special Education Section of the Department of Education shall convene a task force to address issues related to the education of medically fragile, chronically ill, and technology-dependent public school students.

(b) The task force shall be made up of:

- (1) Public school personnel, including school and program administrators;
- (2) School health service providers;
- (3) Regular and special education classroom teachers; and
- (4) Health care providers, including physicians and nursing personnel.

History. Acts 1995, No. 1146, § 1.

6-41-502. Duties — Policy and procedures.

(a) The task force shall, as a minimum:

(1) Develop a written resource guide for local school district development of policy and procedures addressing risk management and liability issues relative to these students; and

(2) Design a training program to assist local school districts in the actual development and implementation of policies and procedures.

(b) Regular and special education teachers shall be involved in the development of these policies and procedures.

History. Acts 1995, No. 1146, § 2.

A.C.R.C. Notes. As enacted by Acts 1995, No. 1146, § 2, subsection (b) of this section began: “Local school districts shall

be required to develop such policies and procedures by the beginning of the 1996-1997 school year.”

6-41-503. Duties — Rules and regulations.

The task force shall also, as a minimum:

(1) Determine and recommend to the State Board of Education rules and regulations identifying the appropriate role and responsibility of public school employees, including certified, classified, and school health service personnel, and that of medical personnel in the provision of services to these students; and

(2) Determine and make recommendations to the state board rules and regulations on what facilities and support services are necessary to meet the needs of these students.

History. Acts 1995, No. 1146, § 3.

A.C.R.C. Notes. As enacted by Acts 1995, No. 1146, § 3, this section contained a subsection (b) which provided: “(b) The

State Board shall adopt such rules and regulations as it deems necessary by the beginning of the 1996-1997 school year.”

6-41-504. Report.

The task force shall report periodically to the House Interim Committee on Education and the Senate Interim Committee on Education the results of its work.

History. Acts 1995, No. 1146, § 4; 1997, No. 112, § 13.

1995, No. 1146, § 4, this section also provided: “An initial report shall be made

A.C.R.C. Notes. As enacted by Acts

no later than October of 1995.”

CHAPTER 42**GIFTED AND TALENTED CHILDREN****SUBCHAPTER****1. GENERAL PROVISIONS.****2. ARKANSAS SCHOOL FOR MATHEMATICS AND SCIENCES. [REPEALED.]****3. ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS.**

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

6-42-101. Policy.

6-42-102. Rules and regulations — Reports.

6-42-103. Office for the Education of Gifted and Talented Children.

6-42-104. Advisory Council for the Education of Gifted and Talented Children.

SECTION.

6-42-105. Disbursing agency.

6-42-106. Gifted and talented programs — Funding and eligibility.

6-42-107. Cooperation with other agencies.

6-42-108. Summer residential and day programs.

6-42-109. Reports by school districts.

Effective Dates. Acts 1997, No. 250, § 258; Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared

to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-42-101. Policy.

It is the policy of this state to assist school districts in providing programs designed to meet the unique educational needs of gifted and talented children.

History. Acts 1979, No. 106, § 1; A.S.A. 1947, § 80-5201.

RESEARCH REFERENCES

ALR. Special education requirements of gifted students. 115 A.L.R.5th 183.

6-42-102. Rules and regulations — Reports.

The State Board of Education shall have the authority to promulgate such rules and regulations and require such reports as it deems advisable.

History. Acts 1979, No. 106, § 5; A.S.A. 1947, § 80-5205.

RESEARCH REFERENCES

ALR. Special education requirements of gifted students. 115 A.L.R.5th 183.

6-42-103. Office for the Education of Gifted and Talented Children.

To implement the policy stated in § 6-42-101, there is established in the Section for the Education of Exceptional Children in the Department of Education, an Office for the Education of Gifted and Talented Children to be headed by an administrator who shall be qualified by education, training, and experience to direct the state program for gifted and talented children.

History. Acts 1979, No. 106, § 1; A.S.A. 1947, § 80-5201.

6-42-104. Advisory Council for the Education of Gifted and Talented Children.

(a)(1) There is established an Advisory Council for the Education of Gifted and Talented Children, which shall advise and consult with the Commissioner of Education and the Administrator of the Office for the Education of Gifted and Talented Children and which shall engage in other activities as set forth in this section.

(2) The advisory council shall be advisory only and shall have no administrative responsibility.

(b)(1) The advisory council shall consist of nine (9) members who are not officers or employees of state agencies and no more than four (4) of whom may be officers or employees of school districts.

(2) The advisory council shall be composed of persons interested in the education of gifted and talented children.

(c)(1) The Governor, subject to confirmation by the Senate, shall appoint the members of the advisory council for terms of three (3) years.

(2) A member may be eligible for reappointment for one (1) additional term.

(d) Vacancies that leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.

(e)(1) The advisory council annually shall elect its own chair and vice chair.

(2) The administrator shall act as secretary to the advisory council.

(f) The Department of Education shall, within available personnel, facilities, and appropriations, furnish meeting facilities and staff services for the advisory council.

(g) The members of the advisory council may receive expense reimbursement in accordance with § 25-16-901 et seq.

(h) The advisory council shall:

(1) Have an opportunity to comment on rules and regulations proposed for issuance pursuant to this subchapter;

(2) Consider any problems presented to it by the commissioner or the administrator and give advice thereon;

(3) Review state plans prepared by the Office for the Education of Gifted and Talented Children prior to their submission to duly constituted authorities;

(4)(A) Make an annual report to the Governor, the General Assembly, the State Board of Education, and the commissioner, which shall be made available to the news media so that the general public may be informed regarding educational programs for gifted and talented children.

(B)(i) Funds for the publication of the annual report of the advisory council shall be made available by the department from its regular appropriations.

(ii) Available federal and state funds may be used for this purpose;

(5) Participate with the staff of the department in determining the need for educational programs to serve gifted and talented children to be operated by the department, in selecting the sites for educational programs, in establishing student selection criteria for participation in the programs, in selecting students to participate in the programs, and in selecting faculty and staff for the programs; and

(6)(A) Select on an annual basis not more than three (3) educational programs for gifted and talented students operated by school districts for recognition as outstanding programs.

(B) The programs so recognized shall be eligible to receive an award of not more than three thousand dollars (\$3,000) from funds appropriated to the department for the purpose of making awards to outstanding educational programs.

History. Acts 1979, No. 106, § 3; 1983 No. 56, § 1; A.S.A. 1947, § 80-5203; Acts (Ex. Sess.), No. 55, § 1; 1983 (Ex. Sess.), 1997, No. 250, § 19.

6-42-105. Disbursing agency.

The Department of Education is designated as the state agency to receive and disburse federal funds designed to improve educational opportunities for gifted and talented children and shall develop such plans and procedures as may be required in order to receive and disburse such federal funds.

History. Acts 1979, No. 106, § 4; A.S.A. 1947, § 80-5204.

6-42-106. Gifted and talented programs — Funding and eligibility.

(a)(1) Appropriations made by the General Assembly to the Public School Fund for the purposes of this subchapter shall be disbursed by

the Department of Education in accordance with regulations promulgated by the State Board of Education.

(2) Such funds may be used to provide financial assistance to school districts operating programs for gifted and talented children and to fund supplemental programs for gifted and talented children operated by the department directly or through contract with other public or private agencies.

(3) All school districts are eligible to make application for payments under this subchapter, and two (2) or more districts may submit an application for a cooperative program.

(b)(1) Specific eligibility requirements for gifted and talented programs in each school district shall be determined by the school district board of directors.

(2) In order to qualify for such financial assistance as may be available from the state, school district eligibility requirements must be consistent with the guidelines for gifted and talented programs adopted by the state board with the advice of the Advisory Council for the Education of Gifted and Talented Children.

History. Acts 1979, No. 106, § 2; A.S.A. 1947, § 80-5202.

6-42-107. Cooperation with other agencies.

The State Board of Education is authorized to cooperate with other public and private agencies in developing programs for gifted and talented children.

History. Acts 1979, No. 106, § 4; A.S.A. 1947, § 80-5204.

6-42-108. Summer residential and day programs.

(a) The Department of Education is authorized to establish annual summer residential and day programs to provide enriched educational offerings for junior high and high school students who have demonstrated exceptional abilities in a specific subject area.

(b) Each program shall offer instruction in subject areas to be designated annually by the department from the subject areas of science, mathematics, computer science, social studies, arts and music, literature and communication, and foreign languages.

(c) The summer educational programs established pursuant to the authority of this section shall be operated by the department directly or by contract with other public or private agencies and shall be funded from the appropriation to the department for the operation of programs for the education of gifted and talented students.

History. Acts 1983 (Ex. Sess.), No. 3, §§ 1, 2; A.S.A. 1947, §§ 80-5206, 80-5207; Acts 1989, No. 693, § 1.

6-42-109. Reports by school districts.

Each school district shall report annually to the Department of Education, at a prescribed due date, the extent to which it is providing educational opportunities specifically designed to meet the educational needs of gifted and talented children.

History. Acts 1979, No. 106, § 5; A.S.A. 1947, § 80-5205.

SUBCHAPTER 2 — ARKANSAS SCHOOL FOR MATHEMATICS AND SCIENCES

SECTION.
6-42-201 — 6-42-206. [Repealed.]

Effective Dates. Acts 2003, No. 1305, § 7: repeal effective by its own terms on Jan. 1, 2004.

6-42-201 — 6-42-206. [Repealed.]

Publisher’s Notes. Former subchapter 42, concerning Arkansas School for Mathematics and Sciences, was repealed by Acts 2003, No. 1305, § 7. The former subchapter was derived from the following sources:
6-42-201. Acts 1991, No. 259, § 1; 1991, No. 305, § 1; 1995, No. 558, § 1; 1995, No. 559, § 1; 1997, No. 1326, § 1.
6-42-202. Acts 1991, No. 259, § 1; 1991, No. 305, § 1; 1995, No. 558, § 2; 1995, No. 559, § 2.

6-42-203. Acts 1991, No. 259, § 1; 1991, No. 305, § 1; 1993, No. 293, § 1; 1995, No. 558, § 3; 1995, No. 559, § 3; 1997, No. 250, § 20.
6-42-204. Acts 1991, No. 259, § 1; 1991, No. 305, § 1; 1995, No. 558, § 4; 1995, No. 559, § 4.
6-42-205. Acts 1991, No. 259, § 1; 1991, No. 305, § 1; 1995, No. 558, § 5; 1995, No. 559, § 5.
6-42-206. Acts 1995, No. 558, § 6; 1995, No. 559, § 6.

SUBCHAPTER 3 — ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS

SECTION.
6-42-301. Arkansas School for Mathematics, Sciences, and the Arts.
6-42-302. Purpose — Location — Funding — Tuition.
6-42-303. Board of Visitors.
6-42-304. Board of Visitors — Purposes.
6-42-305. Administrator — Staff.
6-42-306. Department of Education regulations.

SECTION.
6-42-307. School for Math, Sciences, and Arts Fund.
6-42-308. School qualifies as local education agency.
6-42-309. Charter school option.
6-42-310. School district access provided to the Arkansas School for Mathematics, Sciences, and the Arts.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 22, § 3; Dec. 31, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View District No. 25 v. Huckabee, 351 Ark 31 (2002) declared the existing system of education to be unconstitutional because it is both inequitable and inadequate; that this act assists the Arkansas School for Mathematics, Sciences, and the Arts to be eligible for federal grants, and allows the school the flexibility to become a charter school; and that this act is immediately

necessary to assist the Arkansas School for Mathematics, Sciences, and the Arts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-42-301. Arkansas School for Mathematics, Sciences, and the Arts.

(a) The Board of Trustees of the University of Arkansas is authorized to establish and operate, as a part thereof, a campus to be known as the Arkansas School for Mathematics, Sciences, and the Arts, consolidating and incorporating into the University of Arkansas the facilities of the state institution formerly known as the Arkansas School for Mathematics and Sciences, which together with its board of trustees is abolished as a separate institution effective January 1, 2004.

(b) On January 1, 2004, the Board of Trustees of the University of Arkansas shall be vested with and succeed to all the rights, titles, powers, interests, properties, assets, funds, and credits of the Arkansas School for Mathematics and Sciences and its board of trustees, including all rights, titles, and interests in and to all real and personal property acquired by or vested in that institution or its board of trustees.

(c) On January 1, 2004, the appropriate state officials are directed to transfer all funds, appropriations, credits, and equities belonging to the Arkansas School for Mathematics and Sciences and its board of trustees so that these funds, appropriations, credits, and equities shall be credited to and made available for the Board of Trustees of the University of Arkansas for use on its Arkansas School for Mathematics, Sciences, and the Arts campus.

(d) On January 1, 2004, the Board of Trustees of the Arkansas School for Mathematics and Sciences shall relinquish all responsibility, control, and supervision concerning the Arkansas School for Mathematics and Sciences, and by delivery of the assets, books of accounts, and files of that institution to the Board of Trustees of the University of Arkansas shall be divested of all obligations and duties applicable to the Arkansas School for Mathematics and Sciences.

History. Acts 2003, No. 1305, § 1.

6-42-302. Purpose — Location — Funding — Tuition.

(a) The Arkansas School for Mathematics, Sciences, and the Arts shall be a residential school for eleventh grade and twelfth grade students who exhibit outstanding academic credentials and who have the ability to undertake course work in an environment and with demands similar to those of a university.

(b)(1) The purposes of the school shall be to educate the gifted and talented math, science, and the fine and performing arts students of the state and to develop curricula and materials to improve instruction in mathematics, sciences, and the fine and performing arts for all students in the state.

(2) The school's curriculum, faculty, and admissions policies shall reflect the purposes described by this section.

(c) While the emphasis of the school shall be dedicated to the academic teaching of mathematics, sciences, and the fine and performing arts, emphasis may also be placed upon other areas of the arts and humanities as deemed appropriate by the Board of Trustees of the University of Arkansas.

(d) The board of trustees shall maintain the Arkansas School for Mathematics, Sciences, and the Arts in Hot Springs as a campus of the University of Arkansas, offering at that location the highest possible quality of educational programs as set forth in this subchapter.

History. Acts 2003, No. 1305, § 2.

6-42-303. Board of Visitors.

(a)(1) There is established a Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts.

(2) The persons serving on December 31, 2003, as members of the Board of Trustees of the Arkansas School for Mathematics and Sciences shall be members of the board of visitors and shall continue to serve for terms equal to the unexpired portions of their terms as members of the board of trustees.

(3) The board of visitors shall consist of seven (7) members appointed by the Governor for seven-year terms.

(4) As initial terms expire and when vacancies occur, the Governor shall appoint a person to fill each vacancy for the remaining portion of the unexpired term.

(5) Appointments shall be for terms of seven (7) years or for the remaining portion of an unexpired term.

(b)(1) In addition to possessing the qualifications of an elector, each member of the board of visitors appointed by the Governor shall reside in the State of Arkansas.

(2) One (1) member shall be appointed from each congressional district, and the remaining members shall be appointed from the state at large.

(3)(A) In addition to appointed members of the board of visitors, six (6) ex officio nonvoting members shall also serve on the board of visitors as follows:

- (i) The Commissioner of Education;
- (ii) The Director of the Department of Higher Education;
- (iii) The President of the Arkansas Science and Technology Authority;
- (iv) The Director of the Department of Arkansas Heritage;
- (v) The president of the parent association of the school; and
- (vi) The president of the student government of the school.

(B) The terms of office of an ex officio nonvoting member shall continue so long as he or she occupies the position or office.

(c)(1)(A) The board of visitors shall meet monthly as the board of visitors determines and shall elect from its voting members a chair, a vice chair, and a secretary.

(B) With prior notice to all members, special meetings may be called as needed by either the board chair or any three (3) of the voting members of the board of visitors.

(2) Regular minutes of its meetings shall be preserved.

History. Acts 2003, No. 1305, § 3.

6-42-304. Board of Visitors — Purposes.

(a)(1)(A) The general purpose of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts is to perform a supporting and advising role with regard to the operation of the Arkansas School for Mathematics, Sciences, and the Arts.

(B) The board of visitors may recommend implementation and establishment of policies consistent with policies of the Board of Trustees of the University of Arkansas.

(C) The board of visitors shall serve as a liaison between the school, parents, and other constituents, the President of the University of Arkansas, and the board of trustees.

(D) Because the board of trustees and the president may delegate broad administrative responsibilities to the Administrator of the Arkansas School for Mathematics, Sciences, and the Arts consistent with policies established or approved by the board of trustees, the board of visitors will have the opportunity to give meaningful advice and recommendations to further the development and operation of the school.

(2) The board of visitors shall:

- (A) Assist in securing financial support for the school;
- (B) Advise the administrator of the school and the president and the board of trustees regarding the educational, service, and financial needs of the school;
- (C) Aid in the orderly transition of the school as it becomes a campus of the University of Arkansas;

(D) Accept and execute specific assignments made by the board of trustees and the president;

(E) Keep informed on those matters that are necessary to promote the educational aims of the school for the benefit of the students;

(F) Study in detail the reports and issues placed before it by the board of trustees; and

(G) Promote in diverse ways the growth and development in excellence of the school and the University of Arkansas in general.

(3) The board of visitors shall have oversight coordination as specifically assigned by the board of trustees, which may include oversight responsibility with respect to the school's operating budget, internal governance, and methods of operations.

(4) Communications, including advice and recommendations, from the board of visitors shall be transmitted through the administrator of the school and by him or her through the president to the board of trustees.

(b) The school shall be funded by moneys appropriated by the General Assembly for the operation of the school and by grants, contributions, or donations that may be received for the support of the school.

(c) Students selected to attend the school shall not be required to pay tuition, fees, or room and board.

(d) Any student who is a senior at the school shall have the option of participating in activities and events with and in the same manner as other members of the graduating class in his or her home school district, including, but not limited to, the following:

(1) The prom or banquet;

(2) Class Day activities;

(3) Graduation activities;

(4) Recognition as a honor graduate except as valedictorian or salutatorian; and

(5) Class pictures, including yearbook and composite pictures.

History. Acts 2003, No. 1305, § 4.

6-42-305. Administrator — Staff.

(a)(1) The Administrator of the Arkansas School for Mathematics, Sciences, and the Arts shall be the chief administrative officer of the school and shall administer the Arkansas School for Mathematics, Sciences, and the Arts in accordance with policies established by the Board of Trustees of the University of Arkansas.

(2) The administrator shall be employed by the board of trustees after appropriate advice and counsel of the Board of Visitors of the Arkansas School for Mathematics, Sciences, and the Arts.

(b) Upon recommendation of the administrator, the board of trustees shall employ other personnel as it deems necessary for the operation of the school.

(c)(1) Instructors shall be employed by the board of trustees and shall have such rights, privileges, and obligations as the board of trustees shall determine except that they shall not be eligible for tenure nor carry professional rank.

(2) In the event that policies of the board of trustees conflict with existing law with respect to terms and conditions of employment of instructors and staff, the policies shall control.

(d) Instructors and staff of the school shall continue to be eligible for membership in the Arkansas Teacher Retirement System and to earn credited service for employment at the school or, at their election, shall be eligible to participate in the retirement system of the University of Arkansas.

History. Acts 2003, No. 1305, § 5.

6-42-306. Department of Education regulations.

All Department of Education regulations shall apply to the Arkansas School for Mathematics, Sciences, and the Arts unless the department determines otherwise or unless the regulations conflict with governance of the school by the Board of Trustees of the University of Arkansas and the purposes and intent of this subchapter.

History. Acts 2003, No. 1305, § 6.

6-42-307. School for Math, Sciences, and Arts Fund.

There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “School for Math, Sciences, and Arts Fund”. The fund shall be used to provide for the maintenance, operation, and improvement required by the Arkansas School for Mathematics, Sciences, and the Arts in carrying out its powers, functions, and duties as set out by law. The fund shall consist of moneys allocated and transferred from the Educational Excellence Trust Fund, any general revenues as may be provided by the Revenue Stabilization Law, § 19-5-101 et seq., and any other moneys as may be authorized by law.

History. Acts 2003, No. 1305, § 9.

6-42-308. School qualifies as local education agency.

(a) The General Assembly designates that the Arkansas School for Mathematics, Sciences, and the Arts meets the definition of a “local education agency” because the school is a public authority legally constituted within this state to perform a service function for public secondary schools and is a public institution or agency having administrative control and direction of a secondary school.

(b) This section intends to recognize the function of the Arkansas School for Mathematics, Sciences, and the Arts and to provide eligibility

to the Arkansas School for Mathematics, Sciences, and the Arts to receive federal funds.

(c) Nothing in this section shall permit the Arkansas School for Mathematics, Sciences, and the Arts to receive funds from the Public School Fund except pursuant to a line item appropriation.

History. Acts 2003 (2nd Ex. Sess.), No. 22, § 1.

6-42-309. Charter school option.

The Board of Trustees of the University of Arkansas may petition the State Board of Education for the Arkansas School for Mathematics, Sciences, and the Arts to receive public charter school status under The Arkansas Charter Schools Act of 1999, § 6-23-101 et seq. If the petition is granted, funding for the public charter school shall be made pursuant to an appropriation by the General Assembly for the Arkansas School for Mathematics, Sciences, and the Arts.

History. Acts 2003 (2nd Ex. Sess.), No. 22, § 1.

6-42-310. School district access provided to the Arkansas School for Mathematics, Sciences, and the Arts.

Upon a written request made by the Arkansas School for Mathematics, Sciences, and the Arts, a school district shall provide reasonable access to the school district campus for the purpose of contacting students regarding potential enrollment at the Arkansas School for Mathematics, Sciences, and the Arts.

History. Acts 2007, No. 51, § 1.

CHAPTER 43

ARKANSAS SCHOOL FOR THE BLIND AND ARKANSAS SCHOOL FOR THE DEAF

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS SCHOOL FOR THE BLIND.
3. ARKANSAS SCHOOL FOR THE DEAF.

A.C.R.C. Notes. Acts 1995, No. 687, §§ 1-4 provided: "SECTION 1. It is hereby found and determined by the General Assembly that the State of Arkansas holds title to certain hereinafter described lands which adjoin the lands on which the Arkansas School for the Blind and the Arkansas School for the Deaf are located and which are held for the use and benefit of

the two schools; that the lands are currently under a fifty year lease to the Arkansas Easter Seal Society for a rental of one dollar (\$1.00) per year; that the Board of Trustees for the Arkansas School for the Blind and Arkansas School for the Deaf desires to sell such lands and the improvements thereon; that it is in the best interests of the State of Arkansas and

of the Arkansas School for the Blind and the Arkansas School for the Deaf that the Board of Trustees of the schools be authorized to sell the land and improvements thereon at a reasonable price and that the proceeds of the sale be divided between the Arkansas School for the Blind, the Arkansas School for the Deaf and the Arkansas Easter Seal Society; and that it is the purpose and intent of this act to authorize such sale and the division of the proceeds.

"SECTION 2. The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf is hereby authorized to negotiate for the sale of and to sell the hereinafter described lands which are held in the name of the State of Arkansas for the use and benefit of the Arkansas School for the Blind and the Arkansas School for the Deaf. The board is further authorized to divide the proceeds from the sale of the land and the improvements thereon with the Arkansas Easter Seal Society, Inc., with the board receiving an amount equivalent to the appraised value of the lands exclusive of the improvements thereon, and with the

Arkansas Easter Seal Society receiving the balance of the proceeds.

"SECTION 3. All proceeds derived from the sale of lands exclusive of the improvements thereon as authorized herein shall be used exclusively for the benefit of the Arkansas School for the Blind and the Arkansas School for the Deaf.

"SECTION 4. The following described lands may be sold pursuant to and in accordance with the provisions of this act and any such sale shall be exempt from the procedures and requirements of Arkansas Code 22-6-601 and any other laws relating to the sale of lands by state agencies:

"Beginning at the Northwest corner of Section Four (4), Township One (1) North, Range Twelve (12) West; thence along the North Line of said Section Four (4) for a distance of 900 feet; thence South for a distance of 500 feet, thence West 900 feet to the West line of said Section Four (4); thence North along the West line of said Section Four (4) for a distance of 500 feet to the point of beginning in Pulaski County, Arkansas."

RESEARCH REFERENCES

A.L.R. Educational placement of handicapped children. 23 A.L.R.4th 740.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-43-101. Board of trustees.
- 6-43-102. Powers and duties of board.
- 6-43-103. Superintendents.
- 6-43-104. Employees generally.
- 6-43-105. Attendance — Enforcement.
- 6-43-106. Deaf and blind children — Out-of-state facilities.
- 6-43-107. Application for admission — Certificate of residence.
- 6-43-108. Removal of pupils.
- 6-43-109. Clothing and traveling expenses — Generally.

SECTION.

- 6-43-110. Clothing and travel expenses — Warrants.
- 6-43-111. Funeral expenses.
- 6-43-112. Transportation of students.
- 6-43-113. Compensation limitation.
- 6-43-114. Applicability of § 21-8-304.
- 6-43-115. Additional compensation for employees.
- 6-43-116. Special allowance.
- 6-43-117. Dual position occupancy.

Effective Dates. Acts 1875 (Adj. Sess.), No. 65, § 8: effective on passage.

Acts 1893, No. 154, § 6: effective on passage.

Acts 1925, No. 117, § 7: approved Feb. 27, 1925. Emergency clause provided: "This act, being necessary for the immediate preservation of the public peace, health and safety an emergency is hereby declared to exist, shall take effect and be in force from and after its passage."

Acts 1927, No. 37, § 19: June 30, 1927.

Acts 1943, No. 1, § 9: Jan. 14, 1943. Emergency clause provided: "It is hereby found and declared that amendment No. 33 to the Constitution of the State of Arkansas, which will become effective on January 15, 1943, provides that the General Assembly shall arrange the terms of office of the members of boards charged with the management or control of all charitable, penal or correctional institutions and institutions of higher learning of the State of Arkansas in such manner that the term of office of one member of said board shall expire each year and that said amendment further provides that the unexpired terms of members serving on the effective date of the amendment shall not be decreased; and, it is further found and declared that the terms of members of all of said Boards do not expire in a manner which will make operative all of the provisions of said amendment. It is found, therefore, that delay in the effective date of this act will create confusion by reason of the uncertain status of present board members, and, that in order to preserve the public peace, health and safety, an emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage and approval."

Acts 1979, No. 497, § 3: Mar. 21, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary to provide that one member of the Board of Trustees of the Arkansas School for the Blind and Arkansas School for the Deaf be a deaf person fluent in sign language; that such is not now required, and that this is immediately necessary to provide such requirement. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 356, § 13: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-

Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1981, No. 446, § 16: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1989 (1st Ex. Sess.), No. 263, § 16: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby

declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1993, No. 496, § 18 and No. 497, § 20: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 810, § 19: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 957, § 20: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the

appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1192, § 7: Apr. 11, 1995. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is important to the education and welfare of the students at the Arkansas School for the Blind and the Arkansas School for the Deaf that they receive instruction from caring and qualified individuals; that there is currently a demand for persons qualified in deaf and blind instruction; that persons who are qualified to give instruction in blind and deaf education oftentimes are related to other persons also qualified to give that instruction; that enabling such persons to work together to provide quality education benefits the students at the Arkansas School for the Blind and the Arkansas School for the Deaf; that in order to ensure that such qualified persons are not precluded from providing much needed services to the Arkansas School for the Blind or the Arkansas School for the Deaf it is necessary that this act become effective immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately nec-

essary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1005, § 19: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 1086, § 21: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs.

Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1999, No. 1012, § 20: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 1999, No. 1013, § 25: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

6-43-101. Board of trustees.

(a) There is created an honorary board constituting the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf.

(b)(1) The board shall consist of five (5) members.

(2) The Governor, by and with the advice and consent of the Senate, shall appoint the members of the board.

(3) The Secretary of State shall furnish a certificate to each board member within ten (10) days following appointment, whereupon the appointee shall notify the Governor and the Secretary of State in writing of his or her acceptance of the appointment within thirty (30) days, and if the appointee fails to give notice of his or her acceptance within the time required, then the appointment shall be declared void and another appointment shall be made.

(c)(1) Members of the board appointed by the Governor under the provisions of this section, in addition to possessing the qualifications of an elector, shall reside in the State of Arkansas.

(2)(A) The Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, Commissioner of State Lands, Supreme Court Justices, and the directing head of any state department, state agency, or state institution shall be ineligible for membership on the board provided for in this section during the time for which he or she was elected or appointed.

(B) No individual may be a member of more than one (1) of the boards created under the provisions of this section and § 25-17-201 at the same time.

(3) There shall be at all times one (1) member of the board who is a deaf person who fluently utilizes deaf sign language.

(d)(1) The term of office for each member shall commence on January 15 and shall end on January 14 of the fifth year following the year in which the regular term commenced.

(2) The Governor shall submit to the Senate for approval, on or before the fourteenth day following the commencement of each regular session of the General Assembly, the names of all unconfirmed appointments made by him or her to fill expired terms and the names of appointments to fill the terms expiring during the regular session of the General Assembly. The members appointed by the Governor to fill vacancies caused by the expiration of the terms of members may qualify and hold office until the appointments are rejected by the Senate.

(e) Any vacancies arising in the membership of the board for any reason other than the expiration of the regular terms for which the members were appointed shall be filled by the appointment of the Governor, subject to the approval by a majority of the remaining members of the board, and shall be thereafter effective until the expiration of the regular terms.

(f)(1) Before entering upon his or her respective duties, each board member shall take and subscribe and file in the office of the Secretary

of State an oath to support the United States Constitution and the Arkansas Constitution and to faithfully perform the duties of the office upon which he or she is about to enter and that he or she will not be or become interested, directly or indirectly, in any contract made by the board.

(2)(A) Any violation of the oath shall be a Class B misdemeanor.

(B) Any contract entered into in violation of the oath shall be void.

(g) The board of trustees shall meet at least monthly and shall fix a regular date for the monthly meeting.

(h) Each member of the board may receive expense reimbursement in accordance with § 25-16-901 et seq.

(i)(1) The Governor shall have the power to remove any member of the board before the expiration of his or her term for cause only, after notice and hearing.

(2) The removal shall become effective only when approved in writing by a majority of the total number of the board, but the member removed or his or her successor shall have no right to vote on the question of removal.

(3) The removal action shall be filed with the Secretary of State, together with a complete record of the proceedings at the hearing.

(4)(A) An appeal may be taken to the Pulaski County Circuit Court by the Governor or the member ordered removed, and the appeal shall be tried de novo on the record of the hearing before the Governor.

(B) An appeal may be taken from the circuit court to the Supreme Court, which shall likewise be tried de novo.

History. Acts 1927, No. 37, § 15; Pope's Dig., § 12801; Acts 1943, No. 1, §§ 2, 4-6; 1979, No. 497, § 1; 1981, No. 356, § 8; 1981, No. 446, § 11; A.S.A. 1947, §§ 7-201, 7-203, 7-203.1, 7-204, 7-205, 7-206.1, 7-207; Acts 1993, No. 294, § 16; 1997, No. 250, § 21; 2005, No. 1994, § 387.

Publisher's Notes. Arkansas Constitution, Amendment 33, Section 1 provided in part that the terms of office of five-member boards are five years. The terms are arranged so that the term of one member expires in each year.

Acts 1927, No. 37, § 12 provided, in part, that the honorary board of trustees for the Arkansas School for the Blind and the Arkansas School for the Deaf would organize by electing one of their members as chairman and another as secretary, except as provided in section 18 of that act.

Acts 1943, No. 1, § 7 provided, in part, that as soon as practicable after January 14, 1943, the board created by this section would meet, organize, elect its officers,

and transact such other business as might come before the meeting.

Those provisions of Acts 1943, No. 1 which established honorary boards and commissions governing various state institutions are codified in full as § 25-17-201 et seq. and are codified with respect to particular institutions in this section and §§ 6-43-102, 6-65-103, 6-65-201, 6-65-202, 6-65-301, 6-65-302, 6-66-101, 6-66-102, 6-67-102, 6-67-103.

Acts 1979, No. 497, § 1 provided, in part, that the first vacancy arising on the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf would be filled by the appointment of a deaf person who fluently utilizes deaf sign language. The section further provided that the second vacancy on the board would be filled by the appointment of a legally blind person.

Acts 1979, No. 497, § 1, is also codified as § 25-17-205.

Amendments. The 2005 amendment inserted "or her" and "or she" throughout this section; substituted "Class B misde-

meanor" for "misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) or by imprisonment of not less than six (6) months, or by both fine and imprisonment" in (f)(2)(A); and made minor stylistic changes.

Cross References. Meetings, regulations with respect to, §§ 25-17-208, 25-17-211.

CASE NOTES

Cited: Jackson v. Bishop, 404 F.2d 571 (8th Cir. 1968); Walther v. McDonald, 243 Ark. 912, 422 S.W.2d 854 (1968).

6-43-102. Powers and duties of board.

(a) The board created in § 6-43-101 is charged with the management and control of the Arkansas School for the Blind and the Arkansas School for the Deaf.

(b) The board shall have the power, authority, and duties formerly conferred by law on the board it succeeds including those set forth below:

(1) The board of trustees shall exercise such powers of supervision and control as are not specifically reserved to the superintendent.

(2) The board of trustees shall fix the salaries of officers and employees not already fixed by law.

History. Acts 1927, No. 37, § 12; Pope's Dig., § 12798; Acts 1943, No. 1, § 3; A.S.A. 1947, §§ 7-202, 7-208.

A.C.R.C. Notes. Acts 2005, No. 1399, § 11, provided: "SHARED SERVICES. The Chief Fiscal Officer of the State and the State Treasurer are authorized to establish a joint paying account in the State Treasury, upon direction of the Board of Trustees for the Arkansas School for the Blind and the Arkansas School for the Deaf. The Board may transfer positions, funds and appropriations to the paying account from either school to serve both schools in the areas of Accounting, Personnel, Inventory, Safety and Health Services.

"Funding and appropriations for this account will be from transfers from the fund accounts and appropriations of each agency and shall be divided proportionately from each agency based on student population. Said funds shall be payable from the joint account as if the positions and other budgetary line items of appropriation had originally been established in the joint account. Supervision of this account and supervision of the positions within may come from either school as determined by the Board of Trustees.

"The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

Acts 2005, No. 1400, § 14, provided: "SHARED SERVICES. The Chief Fiscal Officer of the State and the State Treasurer are authorized to establish a joint paying account in the State Treasury, upon direction of the Board of Trustees for the Arkansas School for the Blind and the Arkansas School for the Deaf. The Board may transfer positions, funds and appropriations to the paying account from either school to serve both schools in the areas of Accounting, Personnel, Inventory, Safety and Health Services.

"Funding and appropriations for this account will be from transfers from the fund accounts and appropriations of each agency and shall be divided proportionately from each agency based on student population. Said funds shall be payable from the joint account as if the positions and other budgetary line items of appropriation had originally been established in the joint account. Supervision of this account and supervision of the positions within may come from either school as determined by the Board of Trustees.

"The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

Publisher's Notes. The board created in § 6-43-101 succeeded to all the power, authority, and duties of the board charged with the management or control of the Arkansas School for the Blind and the

Arkansas School for the Deaf under Acts 1927, No. 37, which was abolished by Acts 1943, No. 1, § 1.

As to codification of Acts 1943, No. 1, see Publisher's Notes to § 6-43-101.

Acts 1927, No. 37, § 12, is also codified as § 25-17-212.

CASE NOTES

Cited: *Starnes v. Sadler*, 237 Ark. 325, 372 S.W.2d 585 (1963); *Jackson v. Bishop*, 404 F.2d 571 (8th Cir. 1968); *Doe v.*

Barger, 193 F. Supp. 2d 1112 (E.D. Ark. 2002).

6-43-103. Superintendents.

(a) The immediate conduct and management of the Arkansas School for the Blind and the Arkansas School for the Deaf shall be entrusted to superintendents.

(b) The board of trustees shall select the superintendents of the institutions committed to its care.

(c)(1) Each of the superintendents shall be required to give bond in a sum fixed by the board, payable to the State of Arkansas, for the faithful discharge of his duties and the proper accounting for all moneys and property coming into his or her possession as such officer.

(2) The bonds shall be made by any surety company authorized to do business in Arkansas, approved by the Governor, filed in the office of the Secretary of State, and paid for by the state out of current expenses appropriated by the respective institutions.

(d) The superintendents of the schools shall be required to give their entire time to the management and operation of their respective institutions and shall be selected because of their previous training and fitness to care for the schools entrusted to their care.

History. Acts 1927, No. 37, §§ 12-14; Pope's Dig., §§ 12798-12800; A.S.A. 1947, §§ 7-208 — 7-210.

A.C.R.C. Notes. The operation of subsection (c) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

Publisher's Notes. Acts 1927, No. 37, §§ 12-14, are also codified as § 25-17-212.

Acts 1987, No. 401, § 10, and Acts 1987, No. 402, § 9, provided that the Superintendent of the Arkansas School for the Deaf and the Superintendent of the Arkansas School for the Blind shall, on or before July 1, 1988, consolidate and combine food services, purchasing, and such business office functions of the two institutions as may be consolidated and combined without hampering the separate programmatic needs of the two institutions.

CASE NOTES

Cited: Lindsay v. White, 212 Ark. 541, 206 S.W.2d 762 (1947); Doe v. Barger, 193 F. Supp. 2d 1112 (E.D. Ark. 2002).

6-43-104. Employees generally.

(a) The superintendents shall have power to select and engage all employees of the schools at salaries fixed by the board of trustees, reporting the same for approval to the board at the next regular meeting thereof.

(b) The superintendents shall have the sole power to remove employees of the respective schools and may remove any employee at any time in their discretion for cause, but, in case of removal, he shall report the removal and the ground therefor to the board of trustees.

History. Acts 1927, No. 37, § 14; Pope's Dig., § 12800; Acts 1963, No. 514, § 1; A.S.A. 1947, § 7-210; Acts 1995, No. 1192, § 1.

Publisher's Notes. Acts 1927, No. 37, § 14, is also codified as § 25-17-212.

Cross References. Reimbursement for interpreter services for deaf, § 21-5-218.

CASE NOTES

Discharge of Employees.

The decision by the board to eliminate positions at the Arkansas School for the Blind did not amount to a discharge of individual employees for cause, such that it would infringe upon the power reserved

solely to the superintendent under the statute. Stephens v. Arkansas Sch. for Blind, 341 Ark. 939, 20 S.W.3d 397 (2000).

Cited: Lindsay v. White, 212 Ark. 541, 206 S.W.2d 762 (1947).

6-43-105. Attendance — Enforcement.

(a) Every parent, guardian, or other person having control of any mentally normal minor over eight (8) years of age who is defective in hearing or sight to the extent that he or she cannot be benefited by instruction in the public schools shall be required to send such a minor to the Arkansas School for the Deaf or the Arkansas School for the Blind.

(b) The minor shall continue to attend the schools for a term of at least thirty-two (32) weeks each year until he or she has completed the course of instruction prescribed for the schools by the board of trustees or any other body or person designated by law to have control of the schools, respectively, or until he or she has been discharged by the superintendent of the school.

(c) The deaf or blind minor shall be exempt from attendance at the schools for any of the following reasons:

(1) Instruction by a private tutor or in another school approved by the board of trustees or any other body or person designated by law to

have control of the schools for a time equal to that required by subsection (b) of this section;

(2) Physical incapacity for school work; or

(3) Any other reason deemed good and sufficient by the superintendent of the school with the approval of the board of trustees.

(d)(1) Failure for a period of one (1) week within the school year to send such a minor to school shall constitute an offense.

(2) However, the time necessary for such a minor to travel from his or her home to Little Rock shall not be counted as time absent from school.

(e) Any person who induces or attempts to induce such deaf or blind minor to absent himself or herself from school or who employs or harbors such a minor unlawfully while the schools are in session shall be guilty of a violation and upon conviction shall be fined not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00) for each offense.

(f) It shall be the duty of county boards, or the boards' designees, school attendance officers, prosecuting attorneys, and any special attendance officers appointed by the Arkansas School for the Deaf and the Arkansas School for the Blind as well as all peace officers to enforce the provisions of this section.

(g) Any parent, guardian, or other person in charge of such a minor or minors who fails or refuses to comply with the requirements of this section shall be guilty of a violation and upon conviction shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense.

History. Acts 1925, No. 117, §§ 1-6; Pope's Dig., §§ 12900-12905; Acts 1973, No. 253, § 4; A.S.A. 1947, §§ 80-2401, 80-2402 — 80-2406; Acts 1993, No. 294, § 16; 2005, No. 1994, § 71.

Amendments. The 2005 amendment

substituted "benefited" for "benefitted" in (a); inserted "or she" twice in (b); added "or" in (c)(2); inserted "or herself" in (e); and substituted "violation" for "misdemeanor" in (e) and (g).

6-43-106. Deaf and blind children — Out-of-state facilities.

(a) The Arkansas School for the Blind is authorized to expend available funds for the purpose of sending children under the age of twenty-one (21), who are deaf as well as blind and for which there are no facilities for education in this state, to any school, institution, or other place outside the State of Arkansas providing a qualified program of education for such children.

(b) The funds may be spent for room, board, tuition, transportation, and other items which are necessarily relevant to the education of such children.

(c) In interpreting and carrying out the provisions of this section, the words "deaf-blind children", wherever used, will be construed to include any child whose combination of handicaps of deafness and blindness would prevent him or her from profiting satisfactorily from educational

programs now provided for the blind child or the deaf child by the State of Arkansas.

(d) The school is authorized to determine if such children should be sent to such out-of-state facilities.

(e) The school is authorized to promulgate such rules and regulations as it deems necessary and proper for carrying out the purposes and intent of this section.

History. Acts 1959, No. 249, § 1; A.S.A. 1947, § 80-2401.1.

6-43-107. Application for admission — Certificate of residence.

Whenever application is made for the admission of any blind or hearing impaired person into the Arkansas School for the Blind or the Arkansas School for the Deaf, as a beneficiary of the privileges thereof, the application shall be accompanied by the certificate of the county judge that the person is a legal resident of the county of the State of Arkansas in which it is claimed that he or she resides.

History. Acts 1875, (Adj. Sess.), No. 65, Pope's Dig., §§ 12834, 12884; A.S.A. 1947, § 1, p. 134; C. & M. Dig., §§ 9369, 9481; § 80-2414.

6-43-108. Removal of pupils.

(a)(1) Whenever it shall be deemed necessary by the proper officers of either of the schools, in accordance with the bylaws and regulations thereof, to have pupils removed, either temporarily on account of ill health or the vacation of the school, or permanently on account of having completed their course of instruction or having been found disqualified, from any cause, for a longer continuance in the school, the parents, or guardians, if they have any, of such pupils shall promptly remove them upon the requirement of the officers.

(2) In case they shall not be thus provided for, it shall be the duty of the superintendent or principal of such institution to cause them to be so removed to their houses or delivered to the proper officers of the counties in which they may reside.

(b) The expense of removal shall be refunded to each institution in the same manner as is provided in § 6-43-109; the county sheriff may collect it in the same manner as is provided in § 6-43-109.

History. Acts 1875 (Adj. Sess.), No. 65, Pope's Dig., §§ 12839, 12889; A.S.A. 1947, § 6, p. 134; C. & M. Dig., §§ 9374, 9486; § 80-2424.

6-43-109. Clothing and traveling expenses — Generally.

(a) When such persons, upon proper application, are admitted as pupils of either the Arkansas School for the Blind or the Arkansas School for the Deaf, it shall be the duty of their parents, guardians, or other friends to suitably provide them with clothing at the time of their entrance into the school, and during their continuance therein, and to

defray their traveling expenses to and from the institution, not only at the time of their first entrance and final departure but at any other time when it shall become necessary for them to leave or return to the school.

(b)(1) In all cases in which suitable clothing and means for defraying traveling expenses are not otherwise supplied to the pupils of the schools, suitable clothing and means of defraying travel expenses shall be provided by the superintendent or principal of the respective schools, who shall make out and file with the Auditor of State accounts for the clothing and travel expenses, separate in each case, against the respective counties from which such pupils are sent, in an amount not exceeding forty dollars (\$40.00) per annum for any one (1) pupil. The accounts shall be severally signed by the proper superintendent or principal.

(2) The Auditor of State shall draw his or her warrant on the Treasurer of State for the amounts, which shall be paid out of any money in the State Treasury not otherwise appropriated.

(3) However, the amount drawn by either institution for the afore-said purposes per year shall not exceed two thousand dollars (\$2,000).

(4) Each account thus certified shall be charged to the county from which the pupil named therein was sent.

(5) The Auditor of State shall forward a certified copy of each account so filed with him or her to the sheriff of the proper county, who shall proceed to collect the account in the name of the State of Arkansas, as other debts are collected, and the money so collected shall be paid over to the Treasurer of State, who shall give receipts therefor as in case of other moneys paid into the State Treasury. However, if the sheriff shall be unable to collect the amount of any bill from the parents or estate of any pupil, then the bill shall be refunded to the state out of the county treasury.

History. Acts 1875 (Adj. Sess.), No. 65, 12837, 12885-12887; A.S.A. 1947, §§ 80-§§ 2-4, p. 134; C. & M. Dig., §§ 9370-2415 — 80-2417.
9372, 9482-9484; Pope's Dig., §§ 12835-

6-43-110. Clothing and travel expenses — Warrants.

(a) It shall be the duty of the sheriffs of this state to receive from the county clerks all warrants ordered by their respective county courts by virtue of § 6-43-109(b)(5) and present them to the county treasurer for payment.

(b) The county treasurer of the proper county shall pay the warrants on presentation from any money on hand and appropriated for pauper purposes. However, if there is no money in the county treasurer's hands from which to pay off the warrants, he or she shall endorse the fact on the warrants, date and sign the endorsement, and return them to the sheriff.

(c)(1) The Treasurer of State is authorized to receive from the several sheriffs and collectors of the state any and all such warrants as may be ordered and issued in payment for clothing and expenses of indigent

pupils in the Arkansas School for the Blind or the Arkansas School for the Deaf by the county courts of the counties that are or may be liable for such expenses.

(2) The warrants shall be drawn in favor of the state, shall state on their face the name of the pupil or inmate whose expenses are thereby refunded, and shall be endorsed as required by subsection (b) of this section.

(d) The Treasurer of State is authorized to apply such county warrants so received in payment of the Auditor of State's warrants drawn in favor of the counties for funds received from sales or redemption of lands in lieu of any currency in his hands from the source belonging to the respective counties whose warrants he or she holds, replacing the county warrants with the currency.

(e) The State Board of Finance may biennially in October make such disposition of the county warrants so received and not converted into par funds, as provided in subsection (d) of this section, as shall in the judgment of the board be for the best interest of the state and shall order the proper adjustment of the account of the county warrants on the books of the Treasurer of State and Auditor of State.

History. Acts 1893, No. 154, §§ 1-5; C. 12894; A.S.A. 1947, §§ 80-2418 — 80- & M. Dig., §§ 9377-9381, 9487-9491; 2422.
Pope's Dig., §§ 12842-12846, 12890-

6-43-111. Funeral expenses.

In case of the death of any pupil at either of the schools, when funeral expenses are not otherwise provided for, an account thereof shall be made out, certified to, collected, and applied as provided in § 6-43-109.

History. Acts 1875 (Adj. Sess.), No. 65, Pope's Dig., §§ 12838, 12888; A.S.A. 1947, § 5, p. 134; C. & M. Dig., §§ 9373, 9485; § 80-2423.

6-43-112. Transportation of students.

The Arkansas School for the Deaf and the Arkansas School for the Blind are hereby authorized to transport students to and from school in chartered vehicles that are licensed to do business in the State of Arkansas and which meet minimum safety standards established by the federal Department of Transportation.

History. Acts 1989 (1st Ex. Sess.), No. 263, § 12.

6-43-113. Compensation limitation.

(a) No employee drawing a salary or other form of compensation from the Arkansas School for the Blind or the Arkansas School for the Deaf shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education,

except from the superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two (2) positions has the higher authorized maximum annual salary.

(b) Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

History. Acts 1993, No. 496, § 12; 1993, No. 497, § 14; 1995, No. 810, § 12; 1995, No. 957, § 14.

A.C.R.C. Notes. Acts 2007, No. 326, § 10, provided: "ADDITIONAL SALARY/COMPENSATION PROVISION. No employee drawing a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except from the Superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties, and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two positions has the higher authorized maximum annual salary.

"Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

"The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

Acts 2007, No. 328, § 8, provided: "No employee drawing a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except from the Superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties, and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two positions has the higher authorized maximum annual salary. Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum. The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

6-43-114. Applicability of § 21-8-304.

Section 21-8-304 relating to nepotism, ethics, or conflicts of interest which are applicable to state agencies and state employees generally shall hereafter be applicable to the Arkansas School for the Blind and the Arkansas School for the Deaf and to the board of trustees and employees of those institutions.

History. Acts 1995, No. 1192, § 3.

6-43-115. Additional compensation for employees.

(a) No employee drawing a salary or other form of compensation from the Arkansas School for the Blind or the Arkansas School for the Deaf shall be paid an additional salary or receive additional compensation other than reimbursement for actual expenses from that agency nor from any other agency or institution of higher education except from the superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two (2) positions has the higher authorized maximum annual salary.

(b) Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until the employee shall repay to the State of Arkansas any sums received by the employee in violation of this section together with interest at a rate of ten percent (10%) per annum.

History. Acts 1997, No. 1005, § 12; 1997, No. 1086, § 12.

Publisher's Notes. The language set forth in Acts 2001, No. 190, § 11 or No. 191, § 8 is nearly identical, to the lan-

guage in this section. However, they did not specifically amend or supersede this section, and apparently did not intend for this section to expire on June 30, 2003.

6-43-116. Special allowance.

(a) The Arkansas School for the Blind and the Arkansas School for the Deaf may make special allowances available to any employee who performs one (1) of the following duties in addition to his or her normal duties:

- (1) Teaching adult education classes on weekends or evenings;
- (2) Coaching one (1) or more sports;
- (3) Sponsoring a club or organization that involves additional hours outside the normal working day; or
- (4) Interpretive services.

(b) Compensation for additional duties may not exceed three thousand dollars (\$3,000) per school term for any one (1) employee during each fiscal year.

History. Acts 1999, No. 1012, § 11; 1999, No. 1013, § 11.

A.C.R.C. Notes. Acts 2007, No. 326, § 9, provided: "SPECIAL ALLOWANCE. The Arkansas Schools for the Deaf and Blind may make special allowances available to any employee who performs one of the following duties in addition to their normal duties:

"(1) Teaching adult education classes, parent training, student tutorial services on weekends or evenings

"(2) Coaching one or more sports

"(3) Sponsoring a club or organization that involves additional hours outside of the normal working day.

"(4) Interpretive Services

Compensation for additional duties may not exceed \$3,500 per school term for any one employee during each fiscal year. Such pay shall not be construed as exceeding the maximum salary authorized for said position.

"The provisions of this section shall be in effect only from July 1, 2007 through

June 30, 2009."

Acts 2007, No. 328, § 7, provided: "SPECIAL ALLOWANCE. The Arkansas Schools for the Deaf and Blind may make special allowances available to any employee who performs one of the following duties in addition to their normal duties:

"(1) Teaching adult education classes, parent training, student tutorial services on weekends or evenings;

"(2) Coaching one or more sports;

"(3) Sponsoring a club or organization that involves additional hours outside of the normal working day;

"(4) Interpretive Services.

"Compensation for additional duties may not exceed \$3,500 per school term for any one employee during each fiscal year. Such additional compensation shall not be construed as exceeding the maximum salary authorized for said employee.

"The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

6-43-117. Dual position occupancy.

The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf shall employ and maintain a separate superintendent and secondary principal as authorized by law for each school. In no event shall any one (1) person employed as a superintendent or principal for either school occupy more than one (1) position at one (1) time.

History. Acts 1999, No. 1012, § 13; 1999, No. 1013, § 18.

SUBCHAPTER 2 — ARKANSAS SCHOOL FOR THE BLIND

SECTION.

6-43-201. Board of trustees — Eligibility.

6-43-202. Records of board's proceedings.

6-43-203. Regulations.

6-43-204. General control of property and institutional affairs.

6-43-205. Real and personal property.

6-43-206. Materials and supplies.

6-43-207. Approval of building expenditures.

6-43-208. Superintendent.

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SECTION.

6-43-210. Performance of duties by employees.

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- 6-43-217. Sale of articles made by students.
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SECTION.

- tion presented to blind pupils.
- 6-43-220. Records of purchasing agent.
- 6-43-221. Report of school officers.
- 6-43-222. Record of allowances — Statement of expenditures.
- 6-43-223. Reports — Publication.

Publisher's Notes. Acts 1859, No. 97 incorporated the Arkansas Institute for the Blind. Acts 1866, No. 10 provided that the institute should be established at Arkadelphia, and Acts 1868, No. 50, §§ 1-4 moved the institute from Arkadelphia to Little Rock and provided for a new governing body.

Acts 1879, No. 64, § 1 provided that the Arkansas Institute for the Education of the Blind would thereafter be the Arkansas School for the Blind and that all laws and parts of laws in relation to the institute would apply to the Arkansas School for the Blind. The section further provided that all contracts made with the institute and all legacies, bequests, or gifts made to the institute would be binding upon and belong to the Arkansas School for the Blind.

Effective Dates. Acts 1868, No. 50, § 29: effective on passage.

Acts 1893, No. 159, § 9: effective on passage.

Acts 1907, No. 324, § 11: approved May 14, 1907.

Acts 1911, No. 434, §§ 8, 9: Apr. 1, 1911. Emergency declared.

Acts 1915, No. 286, § 3: Apr. 1, 1915. Emergency declared.

Acts 1917, No. 440, § 6: Apr. 1, 1917. Emergency clause provided: "This Act shall be and the same is hereby declared to be a law necessary for the immediate preservation of the public peace, health and safety, of the community affected, this Act shall take effect and be in force from and after April 1, 1917."

Acts 1923, No. 682, § 4: Mar. 26, 1923. Emergency clause provided: "This act being necessary for the immediate preservation of the public peace, health, and safety, shall take effect and be in force from and after its passage and approval."

Acts 1981, No. 446, § 16: July 1, 1981. Emergency clause provided: "It is hereby

found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1989 (1st Ex. Sess.), No. 263, § 16: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Cross References. Maintenance, transportation, and security for the Arkansas School for the Blind, § 6-43-321.

6-43-201. Board of trustees — Eligibility.

The superintendent, general business manager, and teachers of the school shall not be eligible for the office of trustee for the school.

History. Acts 1868, No. 50, § 7, p. 154; § 12859; A.S.A. 1947, § 80-2209; Acts C. & M. Dig., § 9456; Pope's Dig., 1993, No. 294, § 16.

6-43-202. Records of board's proceedings.

The Board of Trustees of the Arkansas School for the Blind shall keep a full and correct account of their proceedings in books to be provided for such purpose.

History. Acts 1868, No. 50, § 20, p. 154; C. & M. Dig., § 9473; Pope's Dig., § 12876; A.S.A. 1947, § 80-2202.

6-43-203. Regulations.

The Board of Trustees of the Arkansas School for the Blind shall make all regulations necessary for the government of the institution not otherwise provided by law, and it shall incorporate the regulations in the next report it makes after the promulgation of the regulations to the General Assembly.

History. Acts 1868, No. 50, § 7, p. 154; C. & M. Dig., § 9455; Pope's Dig., § 12858; A.S.A. 1947, § 80-2208.

6-43-204. General control of property and institutional affairs.

The Board of Trustees of the Arkansas School for the Blind is invested with the general control and direction of the property and affairs of the school, with power to direct such purchases as, under the advice of the superintendent, may be deemed necessary for the comfort, health, and educational advancement of the blind.

History. Acts 1868, No. 50, § 9, p. 154; C. & M. Dig., § 9465; Pope's Dig., § 12868; A.S.A. 1947, § 80-2207.

6-43-205. Real and personal property.

(a) The trustees may take and hold in trust for the use of the school any lands conveyed or devised, and any money or other personal property given or bequeathed, to be applied to the benefit of the school.

(b)(1) All property that has been or may be acquired by appropriation from the state, or in any other manner, for the use and benefit of the school, shall be held and deemed to be the property of the state for such use and purposes.

(2) All real estate purchased shall be deeded to the State of Arkansas, and, after recording the deed conveying the real estate in the

proper recorder's office, the deed shall be filed in the office of the Secretary of State.

History. Acts 1868, No. 50, §§ 5, 6, p. 154; C. & M. Dig., §§ 9453, 9454; Pope's Dig., §§ 12856, 12857; A.S.A. 1947, §§ 80-2205, 80-2206.

6-43-206. Materials and supplies.

No trustee shall be allowed to furnish material for building purposes; nor shall they be, either directly or indirectly, personally interested in the purchase of any article of merchandise or other supplies for the use of such institution.

History. Acts 1868, No. 50, § 7, p. 154; C. & M. Dig., § 9456; Pope's Dig., § 12859; A.S.A. 1947, § 80-2209.

6-43-207. Approval of building expenditures.

No expenditures for building purposes shall be made for the benefit of the school unless the expenditure shall be recommended by the Board of Trustees of the Arkansas School for the Blind.

History. Acts 1868, No. 50, § 10, p. 154; C. & M. Dig., § 9466; Pope's Dig., § 12869; A.S.A. 1947, § 80-2216.

6-43-208. Superintendent.

(a) The Board of Trustees of the Arkansas School for the Blind shall have the power to elect a Superintendent of the Arkansas School for the Blind, who shall receive an annual compensation to be fixed by the board of trustees. This amount shall be reported to the General Assembly.

(b) The superintendent shall be permitted to accept and use free transportation on any railroad in this state without incurring the penalty incurred in § 23-4-803 [repealed].

History. Acts 1868, No. 50, § 7, p. 154; § 9455; Pope's Dig., § 12858; A.S.A. 1947, 1917, No. 440, § 4, p. 1991; C. & M. Dig., § 80-2208.

6-43-209. General business manager.

(a) The general business manager, before entering upon the duties of his or her office, shall give bond to the state in penalty and with surety, to be approved by the Board of Trustees of the Arkansas School for the Blind, conditioned for the faithful performance of his or her official duties. The bond is to be filed in the office of the Auditor of State.

(b) The general business manager shall discharge his or her various duties under the direction of the Superintendent of the Arkansas School for the Blind, who shall examine all statements prepared by the general business manager, whether for past or contemplated expenditures, and

the board of trustees shall receive no statement of expenditures from the general business manager unless the approval of the superintendent is endorsed thereon.

History. Acts 1868, No. 50, §§ 12, 14, p. 154; C. & M. Dig., §§ 9468, 9469; Pope's Dig., §§ 12871, 12872; A.S.A. 1947, §§ 80-2218, 80-2219; Acts 1993, No. 294, § 16.

A.C.R.C. Notes. The operation of subsection (a) of this section was suspended by adoption of a self-insured fidelity bond

program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

6-43-210. Performance of duties by employees.

The teachers, officers, and employees shall perform such other duties as the Superintendent of the Arkansas School for the Blind may direct, and when their services are not needed, they shall be discharged. However, if the teachers, officers, and employees are unjustly discharged, they shall be entitled to a fair and impartial hearing before the Board of Trustees of the Arkansas School for the Blind.

History. Acts 1907, No. 324, § 3, p. 785; C. & M. Dig., § 9461; Pope's Dig., § 12864; A.S.A. 1947, § 80-2212.

CASE NOTES

Discharge of Employees.

The decision by the board to eliminate positions at the Arkansas School for the Blind did not amount to a discharge of individual employees for cause and, therefore, the employees discharged as a result

of the elimination of their positions were not entitled to hearings under the statute. *Stephens v. Arkansas Sch. for Blind*, 341 Ark. 939, 20 S.W.3d 397 (2000).

Cited: *Lucas v. Futrall*, 84 Ark. 540, 106 S.W. 667 (1907).

6-43-211. Qualifications of teachers.

No teacher shall be employed in the school unless the teacher holds a current teacher's license issued by the State Board of Education.

History. Acts 1909, No. 282, § 7, p. 864; C. & M. Dig., § 9459; Pope's Dig., § 12862; A.S.A. 1947, § 80-2211; Acts 1993, No. 294, § 16.

6-43-212. Employment of operatives to make repairs and cultivate grounds.

The Superintendent of the Arkansas School for the Blind may employ such operatives as are necessary for the proper management of the school, the repair of buildings, and cultivation of adjacent grounds belonging thereto, and the superintendent shall report the same to the Board of Trustees of the Arkansas School for the Blind at its next meeting.

History. Acts 1868, No. 50, § 10, p. 154; C. & M. Dig., § 9466; Pope's Dig., § 12869; A.S.A. 1947, § 80-2216.

6-43-213. Salaries.

(a) The salary of any person connected with this institution shall not be increased during the period for which he or she has been elected or employed. When any increase of salary is granted by the Board of Trustees of the Arkansas School for the Blind by this subsection (a), the increase shall take effect and be in force at the beginning of the next school term after the increase is granted.

(b) Teachers for the sensory impaired shall be eligible for an additional step increase after being certified in teaching the vision or hearing impaired by the Department of Education.

(c) The Arkansas School for the Blind is hereby authorized to pay employees hired in the position of teacher for the sensory impaired for the yearly school term the maximum annual salary rate established for each position.

History. Acts 1911, No. 434, § 4; C. & M. Dig., § 9458; Pope's Dig., § 12861; Acts 1981, No. 446, §§ 10, 12; A.S.A. 1947, §§ 80-2210 — 80-2210.2; Acts 1989 (1st Ex. Sess.), No. 263, § 10.

A.C.R.C. Notes. Acts 2007, No. 326, § 15, provided: "In the event that an act is enacted in which the public schools re-

ceive funds from the General Assembly to raise the salaries of teachers employed in the public school districts, the Arkansas School for the Deaf and the Arkansas School for the Blind shall be included.

"The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

6-43-214. Admissions.

(a) All blind persons of suitable character and capacity between the ages of three (3) and twenty-one (21) years, residing in the state shall be entitled to the benefits of the school free of charge.

(b) Pupils from outside the state may be admitted to the privileges of the institution upon the payment of such sums as the Board of Trustees of the Arkansas School for the Blind may consider sufficient to defray expenses.

(c) If, in the opinion of the board of trustees, any blind person above the age of twenty-one (21) years may be benefited by being received into the institution for a limited time to learn a trade or receive instruction, they may, by unanimous vote, and with approval of the Superintendent of the Arkansas School for the Blind, admit such person.

History. Acts 1868, No. 50, §§ 22, 24, p. 154; C. & M. Dig., §§ 9476, 9477; Pope's Dig., §§ 12879, 12880; A.S.A. 1947, §§ 80-2407, 80-2408; Acts 1993, No. 294, § 16.

6-43-215. Expulsions.

The Board of Trustees of the Arkansas School for the Blind may expel from the school any pupil whose longer continuance in the school would be injurious to the school.

History. Acts 1868, No. 50, § 24, p. 154; C. & M. Dig., § 9477; Pope's Dig., § 12880; A.S.A. 1947, § 80-2408.

6-43-216. Use of buildings during vacation period.

No person, teacher, party, servant, or employee shall be boarded, lodged, or in any manner whatever provided for during the vacation of the school, neither shall any party or person at any time be lodged, boarded, or permitted to remain at the school at the expense of the state not specifically designated and provided for in this subchapter. However, this section shall not apply to those employees and pupils who have no homes and are required to remain at the school during vacation.

History. Acts 1893, No. 159, § 8, p. 273; C. & M. Dig., § 9479; Pope's Dig., § 12882; A.S.A. 1947, § 80-2222.

Publisher's Notes. Acts 1921, No. 499, § 1, provided an exception to this section

for any female teacher who is totally blind and who has taught twenty-five consecutive years in the Arkansas School for the Blind, and is unable to perform regular services as a teacher.

6-43-217. Sale of articles made by students.

The funds arising from the sale of articles made at the school by student labor shall be used as a contingency fund by the Superintendent of the Arkansas School for the Blind, under the direction of the Board of Trustees of the Arkansas School for the Blind, for the purpose of paying for postage, freight, expressage, telegraph and telephone tolls, emergencies, medicines, and such other purposes as the board of trustees may direct, and the superintendent shall submit an itemized statement of receipts and expenditures from this fund to the board of trustees at its monthly meetings.

History. Acts 1915, No. 286, § 2; C. & M. Dig., § 9480; Pope's Dig., § 12883; A.S.A. 1947, § 80-2223.

6-43-218. Financial aid to graduates attending postsecondary educational institutions.

(a) Any graduate of the Arkansas School for the Blind who is a resident of this state and who is a regularly enrolled student in any university, college, conservatory of music, or technical institution may, under the direction of the Superintendent of the Arkansas School for the Blind and subject to the approval of the Board of Trustees of the Arkansas School for the Blind, receive aid for the purpose of defraying his necessary expenses, including a reader, while in attendance at such university, college, conservatory of music, or technical institution. However, not more than seven hundred fifty dollars (\$750) shall be so expended on account of any one (1) such person during any fiscal year.

(b) No person shall become a beneficiary under the provisions of this section until it shall appear to the satisfaction of the superintendent,

after investigation, that the person has no sufficient separate estate to provide for his or her education and that the parents of the person, if living, are unable to provide for such higher education.

(c) No one (1) person shall receive the benefits of this section for more than four (4) years.

History. Acts 1923, No. 682, §§ 1, 2; Pope's Dig., §§ 12895, 12896; A.S.A. 1947, §§ 80-2428, 80-2429.

6-43-219. Sacred Scriptures and copy of United States Constitution presented to blind pupils.

The Board of Trustees and the Superintendent of the Arkansas School for the Blind are authorized to present to each pupil who shall have finished the course in the institution and who shall be honorably discharged from the school, having learned to read by touch, a copy of the Sacred Scriptures and a copy of the United States Constitution in braille.

History. Acts 1868, No. 50, § 15, p. 154; C. & M. Dig., § 9471; Pope's Dig., § 12874; A.S.A. 1947, § 80-2430.

6-43-220. Records of purchasing agent.

(a)(1) The purchasing agent shall keep a full and complete record of all contracts made and entered into for all articles bought for the school and all bids accepted and rejected.

(2) The record shall show all contracts in full, price paid for all items, quantity of each item, and from whom purchased.

(b) The purchasing agent shall keep a copy and record of all building contracts of whatsoever nature and kind.

History. Acts 1911, No. 434, § 7; C. & M. Dig., § 9464; Pope's Dig., § 12867; A.S.A. 1947, § 80-2214.

6-43-221. Report of school officers.

The officers of the school shall make reports to the Board of Trustees of the Arkansas School for the Blind as it may from time to time require.

History. Acts 1868, No. 50, § 20, p. 154; C. & M. Dig., § 9474; Pope's Dig., § 12877; A.S.A. 1947, § 80-2221.

6-43-222. Record of allowances — Statement of expenditures.

(a) The Board of Trustees of the Arkansas School for the Blind shall keep a book in which they shall record all allowances and make an entry of the proceedings had thereon.

(b)(1) The general business manager shall report to the board of trustees a detailed statement, under oath, of all the expenditures he or she may have made for the preceding three (3) months, to whom made, and for what purpose, to the truth of which he or she shall take and subscribe an oath.

(2) The report shall be accompanied by proper vouchers.

History. Acts 1868, No. 50, § 14, p. § 12873; A.S.A. 1947, § 80-2220; Acts 154; C. & M. Dig., § 9470; Pope's Dig., 1993, No. 294, § 16.

6-43-223. Reports — Publication.

(a)(1) The Board of Trustees and the Superintendent of the Arkansas School for the Blind shall make a full and complete report, to be submitted to the Governor and each General Assembly, not later than January 15 of each year the General Assembly is in session.

(2) These reports shall deal with improvements made during the biennial period covered by them, together with the suggestions and recommendations covering the institution for the next legislative period.

(3) The report of the board of trustees shall cover the preceding school year.

(4)(A) The board of trustees and the superintendent shall each make detailed reports biennially to the General Assembly of their proceedings, the condition of the school, the number of pupils, and other facts connected with the institution, including the exact receipts and expenditures of the board of trustees.

(B) The superintendent shall report to the board of trustees prior to each session of the General Assembly a detailed statement of the number of pupils admitted and discharged, their place of residence and supposed cause of blindness, the amount of money expended and for what purpose, and the probable sum necessary to defray the current expenses of the institution until the ensuing session of the General Assembly, which report shall be embodied in that of the board of trustees.

(5)(A) The reports shall be made and printed together not later than January 15 of each year the General Assembly is in session.

(B) There shall be, of each biennial report of the board of trustees to the General Assembly, one thousand five hundred (1,500) copies printed — one thousand (1,000) for the use of the General Assembly and five hundred (500) for the school.

History. Acts 1868, No. 50, §§ 11, 20, Dig., §§ 12867, 12870, 12878, 12881; 27, p. 154; 1911, No. 434, § 7; C. & M. A.S.A. 1947, §§ 80-2203, 80-2204, Dig., §§ 9464, 9467, 9475, 9478; Pope's 80-2214, 80-2217.

SUBCHAPTER 3 — ARKANSAS SCHOOL FOR THE DEAF

SECTION.

- 6-43-301. Establishment.
- 6-43-302. Real and personal property.
- 6-43-303. Rent, construction, or repair of facilities.
- 6-43-304. Action for trespass or other wrongs brought by state.
- 6-43-305. Teachers generally.
- 6-43-306. Duties of teachers and employees.
- 6-43-307. Limitations on salary increases.
- 6-43-308. Custodian of funds — Payment of bills, warrants, etc.
- 6-43-309. Accounts and records — Reports.
- 6-43-310. Records of secretary and purchasing agent.

SECTION.

- 6-43-311. Biennial reports.
- 6-43-312 — 6-43-314. [Repealed.]
- 6-43-315. List of applications in numerical order.
- 6-43-316. Length of time students may remain.
- 6-43-317. Boarding and lodging.
- 6-43-318. Aid to deaf students at college.
- 6-43-319. Cruel or severe punishment forbidden.
- 6-43-320. Shift differential.
- 6-43-321. Maintenance, transportation, and security for the Arkansas School for the Blind.

Publisher's Notes. Acts 1923, No. 462, § 1 changed the name of the Arkansas Deaf-Mute Institute to the Arkansas School for the Deaf.

Preambles. Acts 1891, No. 155 contained a preamble which read: "Whereas, The Government of the United States maintains, at Washington, a college for the deaf, and many of the deaf youth of this State male and female, are desirous of enjoying the advantages of that college, but because the term of seven years that they are allowed to attend the Arkansas Deaf-Mute Institute, is not sufficient for them to prepare themselves to pass the examination for entrance to the college, and, Whereas, Other young men and women find that their term of seven years has expired before they are sufficiently skilled in their trades to obtain employment in them at fair wages;

"Therefore ..."

Effective Dates. Acts 1868, No. 36, § 27: effective on passage.

Acts 1869 (Adj. Sess.), No. 66, § 2: effective on passage.

Acts 1871, No. 23, § 2: effective on passage.

Acts 1891, No. 155, § 3: effective on passage.

Acts 1893, No. 31, § 2: effective on passage.

Acts 1905, No. 276, § 2: effective on passage.

Acts 1907, No. 316, § 9: Apr. 1, 1907.

Acts 1911, No. 442, § 7: Apr. 15, 1911.

Emergency declared.

Acts 1981, No. 356, § 13: July 1, 1981.

Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1989 (1st Ex. Sess.), No. 248, § 18: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for

which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1997, No. 1086, § 21; July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the

appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

6-43-301. Establishment.

An institute of learning is established in the State of Arkansas for the education of hearing impaired persons of the state, by and under the name and title of the Arkansas School for the Deaf.

History. Acts 1868, No. 36, § 1, p. 115; M. Dig., § 9342; Pope's Dig., § 12807; 1869 (Adj. Sess.), No. 66, § 1, p. 132; C. & A.S.A. 1947, § 80-2301.

6-43-302. Real and personal property.

(a) The Board of Trustees of the Arkansas School for the Deaf may take and hold in trust for the state to the use of the school any lands conveyed or devised and any money or other personal property given or bequeathed, to be applied to the use and benefit of the school.

(b) All property pertaining to the Arkansas School for the Deaf shall be exempt from taxation.

History. Acts 1868, No. 36, §§ 4, 22, p. 115; §§ 12809, 12823; A.S.A. 1947, §§ 80-115; 1869 (Adj. Sess.), No. 66, § 1, p. 132; 2303, 80-2304. C. & M. Dig., §§ 9344, 9358; Pope's Dig.,

6-43-303. Rent, construction, or repair of facilities.

The Board of Trustees of the Arkansas School for the Deaf shall have power to make all contracts for the rent or construction and repair of any building and appurtenances belonging to or used by the school.

History. Acts 1868, No. 36, § 5, p. 115; C. & M. Dig., § 9345; Pope's Dig., § 12810; A.S.A. 1947, § 80-2308.

6-43-304. Action for trespass or other wrongs brought by state.

For all damages for trespass and other wrongs upon the buildings or any other property, personal or real, belonging to the Arkansas School for the Deaf, actions may be maintained in the name of the state, and all damages received in such actions shall be appropriated to the repair of the injured property.

History. Acts 1868, No. 36, § 12, p. 115; C. & M. Dig., § 9350; Pope's Dig., § 12815; A.S.A. 1947, § 80-2305.

6-43-305. Teachers generally.

(a) The Arkansas School for the Deaf is hereby authorized to pay employees hired in the position of teacher for the sensory impaired or senior audiologist for the yearly school term the maximum annual salary rate established for each position.

(b) Teachers for the sensory impaired shall be eligible for an additional step increase after being certified in teaching the vision or hearing impaired by the Department of Education.

History. Acts 1911, No. 442, § 4; C. & M. Dig., § 9365; Pope's Dig., § 12830; Acts 1981, No. 356, §§ 7, 9; A.S.A. 1947, §§ 80-2314, 80-2315.1, 80-2315.2; Acts 1989 (1st Ex. Sess.), No. 248, § 12; 1993, No. 294, § 16; 1997, No. 1086, § 15.

A.C.R.C. Notes. Acts 2007, No. 328, § 10, provided: "Upon the superintendent's certification to the State Personnel Administrator of prior service at an educational institution and most recent contractual salary, the salary of teachers holding certification in teaching the hearing impaired and entering state service as teachers for the sensory impaired may be adjusted to a rate of pay closest to but not less than their most recent annual salary. The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

Acts 2007, No. 328, § 11, provided: "The Arkansas School for the Deaf is hereby authorized, after prior review by the Arkansas Legislative Council upon certification by the superintendent of the Arkansas School for the Deaf to the Office of Personnel Management and approval of the Chief Fiscal Officer of the State to grant either a 2.5 percent (2.5%) salary bonus payment to employees meeting the required level of Sign Language Communication Proficiency Interview (SCPI) for

the employee's current position or up to a 10% salary increase for employees meeting minimum standards established under Arkansas code ACA 21-5-211 (1) (f) (i). The bonus may be awarded upon submission of documented proof of such certification provided the employee's most recent performance evaluation results in a satisfactory or better rating and provided that the employee has taken a minimum of one course in sign language or in linguistics of sign language after the employee's hire date. New and probationary employees shall be eligible for the bonus payment or salary increase after their probationary period expires provided that the above requirements are met. Employees are eligible for only one SCPI bonus payment as authorized by this subsection over the course of employment. The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

Acts 2007, No. 328, § 15, provided: "In the event that an act is enacted in which the public schools receive funds from the General Assembly to raise the salaries of teachers employed in the public school districts, the Arkansas School for the Deaf and the Arkansas School for the Blind shall be included. The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

6-43-306. Duties of teachers and employees.

The teachers, officers, and employees shall perform such other duties as the Superintendent of the Arkansas School for the Deaf may direct, and, when their services are not needed, they shall be discharged. However, if the teachers, officers, and employees are unjustly discharged, they shall be entitled to a fair and impartial hearing before the Board of Trustees of the Arkansas School for the Deaf and to be represented by counsel if they desire.

History. Acts 1911, No. 442, § 3; C. & M. Dig., § 9363; Pope's Dig., § 12828; A.S.A. 1947, § 80-2316.

6-43-307. Limitations on salary increases.

The salary of any person connected with this school shall be as determined by law.

History. Acts 1907, No. 316, § 4; p. § 12831; A.S.A. 1947, § 80-2315; Acts 751; C. & M. Dig., § 9366; Pope's Dig., 1993, No. 294, § 16.

6-43-308. Custodian of funds — Payment of bills, warrants, etc.

(a) The Treasurer of State shall have the custody of all moneys, notes, securities, and other obligations belonging to the Arkansas School for the Deaf and shall be responsible for them under his or her bond and oath as the Treasurer of State.

(b) The Treasurer of State shall pay all the expenses of the school out of the funds appropriated for the use of the school, upon warrants drawn by the Auditor of State in favor of the Board of Trustees of the Arkansas School for the Deaf, who shall issue his or her warrants upon orders signed by the President of the Board of Trustees of the Arkansas School for the Deaf and at least two (2) members of the board of trustees, except as herein otherwise provided.

History. Acts 1868, No. 36, § 6; C. & M. Dig., § 9346; Pope's Dig., § 12811; A.S.A. 1947, § 80-2306.

6-43-309. Accounts and records — Reports.

The accounts and records of the Arkansas School for the Deaf shall be so kept by the Board of Trustees of the Arkansas School for the Deaf and the principal as to show the kind, quality, cost, and of whom bought, of each article purchased for use thereof, the condition of the school, the specific amount of the receipts and expenditures, the number, name, and date of admission of each pupil, age, cause of deafness, and length of time under instruction of each pupil, of beneficiaries of each pupil, and all other pupils received into the school, and the number and salaries of officers and employees, and this information shall be embodied in a report made to the Governor on or before the convening

of the General Assembly at each regular session, and shall be presented to that body by the Governor with his or her message.

History. Acts 1868, No. 36, § 7, p. 115; C. & M. Dig., § 9347; Pope's Dig., § 12812; A.S.A. 1947, § 80-2307.

6-43-310. Records of secretary and purchasing agent.

(a)(1) The secretary and purchasing agent shall keep a full and complete record of all contracts made and entered into for the purchase of all articles bought for the Arkansas School for the Deaf and all bids accepted and rejected.

(2) The record shall show all contracts in full, price paid per item, for all items and quantity of each item, and from whom purchased.

(b) The secretary and purchasing agent shall keep a copy and a record copy of all building contracts of whatsoever nature or kind.

History. Acts 1911, No. 442, § 6, p. 452; C. & M. Dig., § 9347; Pope's Dig., § 12833; A.S.A. 1947, § 80-2311.

6-43-311. Biennial reports.

(a) The Board of Trustees and the Superintendent of the Arkansas School for the Deaf shall make a full and complete report to be submitted to the Governor, which shall be printed together and presented to each General Assembly not later than January 16 of each year the General Assembly is in session.

(b) The report of the board of trustees shall cover the two (2) preceding calendar years, and the report of the superintendent shall cover the two (2) preceding school years.

(c) These reports shall deal with the improvements made during the biennial period covered by them, together with the suggestions and recommendations concerning the school for the next biennium.

History. Acts 1911, No. 442, § 6; C. & M. Dig., § 9368; Pope's Dig., § 12833; A.S.A. 1947, § 80-2311.

6-43-312 — 6-43-314. [Repealed.]

Publisher's Notes. These sections, concerning the keeping of records and reports of hearing impaired persons of the county by the sheriff, hearing impaired orphans, and admissions, were repealed by Acts 1993, No. 294, § 16. They were derived from the following sources:

6-43-312. Acts 1868, No. 36, § 21, p. 115; C. & M. Dig., § 9356; Pope's Dig., § 12821; A.S.A. 1947, § 80-2409.

6-43-313. Acts 1868, No. 36, § 21, p. 115; C. & M. Dig., § 9357; Pope's Dig., § 12822; A.S.A. 1947, § 80-2410.

6-43-314. Acts 1868, No. 36, § 8, p. 115; 1895, No. 151, § 1, p. 236; 1909, No. 56, § 1, p. 141; C. & M. Dig., § 9348; Pope's Dig., § 12813; A.S.A. 1947, § 80-2412.

6-43-315. List of applications in numerical order.

The Principal of the Arkansas School for the Deaf is required to keep a list of all applications for admission in their numerical order.

History. Acts 1871, No. 23, § 1, p. 38; C. & M. Dig., § 9361; Pope's Dig., § 12826; A.S.A. 1947, § 80-2413.

6-43-316. Length of time students may remain.

(a) Any hearing impaired person who may be admitted into the school and supported as a beneficiary at the expense of the state shall be permitted to remain in the school for thirteen (13) years unless, in the judgment of the Board of Trustees of the Arkansas School for the Deaf, he or she shall be sooner discharged.

(b) The board of trustees is empowered to extend the term of such pupils as may be recommended by the principal from time to time beyond the original period of thirteen (13) years, either for further instruction with a view to entering college, or for perfecting themselves in their trades. However, no more than twenty (20) pupils shall be so recommended in one (1) year, nor any one (1) for more than three (3) years' extension.

History. Acts 1868, No. 36, § 16, p. 115; M. Dig., §§ 9353, 9375; Pope's Dig., 1891, No. 155, § 1, p. 265; 1893, No. 31, §§ 12818, 12840; A.S.A. 1947, §§ 80-§ 1, p. 49; 1905, No. 276, § 1, p. 694; C. & 2425, 80-2426.

6-43-317. Boarding and lodging.

(a) It shall be the duty of the Principal of the Arkansas School for the Deaf to furnish, or cause to be furnished, suitable and proper boarding and lodging, as well as suitable instruction, for all hearing-impaired persons received as beneficiaries. He shall receive into the school other hearing-impaired persons according to such regulations as the Board of Trustees of the Arkansas School for the Deaf may prescribe.

(b)(1) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may require the superintendent or other school official to reside at the institution.

(2) The board of trustees may provide other benefits to the Superintendent for the Arkansas School for the Deaf out of the operation funds of the respective school.

(c) No person shall lodge or board in the school who is not a pupil thereof, except its officers and their families.

History. Acts 1868, No. 36, §§ 5, 17, p. 115; C. & M. Dig., §§ 9345, 9354; Pope's Dig., §§ 12810, 12819; A.S.A. 1947, §§ 80-2308, 80-2411; Acts 2001, No. 1143, § 1.

6-43-318. Aid to deaf students at college.

When the county judge of any county has certified that a deaf pupil is indigent, the provisions of § 6-43-109 shall be extended to the pupil while the pupil is a student of a college.

History. Acts 1891, No. 155, § 2, p. 265; C. & M. Dig., § 9376; Pope's Dig., § 12841; A.S.A. 1947, § 80-2427.

6-43-319. Cruel or severe punishment forbidden.

There shall be no cruel or severe punishment inflicted upon the pupils of the school.

History. Acts 1868, No. 36, § 23, p. 115; C. & M. Dig., § 9359; Pope's Dig., § 12824; A.S.A. 1947, § 80-2318.

1086, § 9, inadvertently assigned this section's code number in 1997, has been recodified as § 6-43-321.

Publisher's Notes. Acts 1997, No.

6-43-320. Shift differential.

For the Arkansas School for the Deaf, shift work must begin not earlier than 2:00 p.m. and end no later than 8:00 a.m. the following day.

History. Acts 1997, No. 1086, § 13.

June 30, 2007."

A.C.R.C. Notes. Acts 2005, No. 1400, § 9, provided: "SHIFT DIFFERENTIAL. For Arkansas School for the Deaf, shift work must begin not earlier than 2:00 p.m. and end no later than 8:00 a.m. the following day.

Acts 2007, No. 328, § 9, provided: "For Arkansas School for the Deaf, shift work must begin not earlier than 2:00 p.m. and end no later than 8:00 a.m. the following day. The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

"The provisions of this section shall be in effect only from July 1, 2005 through

6-43-321. Maintenance, transportation, and security for the Arkansas School for the Blind.

(a) The Arkansas School for the Deaf shall be responsible for providing maintenance, transportation, and security for the Arkansas School for the Blind.

(b) The Arkansas School for the Deaf is authorized to spend general revenue funds to provide for these services.

History. Acts 1997, No. 1086, § 9.

The Arkansas School for the Deaf is authorized to spend general revenue funds to provide for these services. The provisions of this section shall be in effect only from July 1, 2007 through June 30, 2009."

A.C.R.C. Notes. Acts 2007, No. 328, § 13, provided: "The Arkansas School for the Deaf shall be responsible for providing maintenance, transportation, and security for the Arkansas School for the Blind.

CHAPTER 44

ADULT LITERACY

SUBCHAPTER.

1. [RESERVED.]
2. STATE COMMISSION ON ADULT LITERACY. [REPEALED.]

SUBCHAPTER 1

[Reserved]

SUBCHAPTER 2 — STATE COMMISSION ON ADULT LITERACY

SECTION.

6-44-201 — 6-44-203. [Repealed.]

6-44-201 — 6-44-203. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 1999, No. 1323, § 26. The subchapter was derived from the following sources:

6-44-201. Acts 1989, No. 812, § 1; 1991,

No. 390, § 1; 1991, No. 399, § 1; 1997, No. 250, § 22; No. 1354, § 7.

6-44-202. Acts 1989, No. 812, § 3; 1991, No. 390, § 2; 1991, No. 399, § 2.

6-44-203. Acts 1989, No. 812, § 2.

CHAPTER 45

ARKANSAS BETTER CHANCE PROGRAM

SECTION.

6-45-101. Title.

6-45-102. Legislative intent.

6-45-103. Definitions.

6-45-104. Construction.

6-45-105. Establishment of the Arkansas Better Chance Program.

6-45-106. Application process — Allocation of funding.

SECTION.

6-45-107. Publication of funding availability and program criteria.

6-45-108. Criteria for determining need.

6-45-109. Certification by the Division of Child Care and Early Childhood Education.

6-45-110. Assessment.

A.C.R.C. Notes. Acts 2007, No. 736, § 26, amended § 6-23-501 to provide in part: “(d)(1) An open-enrollment public charter school shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws its students if the public school district decides to sell or lease the public school facility.

“(2) The public school district may not require lease payments that exceed the fair market value of the property.

“(3) The application of this subsection (d) is subject to the rights of a repurchaser under § 6-13-103 regarding property taken by eminent domain.

“(4) A public school district is exempt from the provisions of this subsection (d) if the public school district, through an open bid process, receives and accepts an offer to lease or purchase the property from a purchaser other than the open-enrollment public charter school for an amount that exceeds the fair market value.

“(5) The purposes of this subsection (d) are to:

“(A) Acknowledge that taxpayers intended a public school facility to be used as a public school; and

“(B) Preserve the option to continue that use.

“(6) Nothing in this subsection (d) is intended to diminish the opportunity for an Arkansas Better Chance program to bid on the purchase or lease of the public school facility on an equal basis as the open-enrollment charter school.”

Effective Dates. Acts 1991, Nos. 212, 216, § 6: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that a need exists to provide state financial assistance to appropriate early childhood programs in order to identify and address the critical needs of three to five year old educationally deprived children. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation and protection of the public, peace, health, and safety shall be in full force and effect from July 1, 1991.”

Acts 1995, No. 850, § 8: effective for taxable years beginning Jan. 1, 1995.

Acts 1995, No. 850, § 12: Mar. 31, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that the State of Arkansas is in serious need to provide for the health, welfare and education of the State’s children by encouraging child care facilities to

offer an ‘appropriate early childhood program’ and this Act is designed to meet that need by providing tax incentives to encourage construction of these facilities. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1999, No. 1222, § 21: Apr. 8, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that it is essential to the effective and efficient administration of the Child Care Licensing program that the responsibility for reviewing appeals be placed in the Child Care Appeal Review Panel under the Department of Human Services, as soon as possible and that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval of the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

6-45-101. Title.

The title of this chapter shall be the “Arkansas Better Chance Program Act”.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1.

6-45-102. Legislative intent.

It is the intent of the General Assembly to expand the availability of developmentally appropriate early childhood programs, including, but not limited to, Head Start, the Home Instruction for Parents of Preschool Youngsters, Therapeutic Child Development Programs, and Parents As Teachers. Children have the capacity to learn at very early ages, and participating in high-quality early care and education programs provides preschool children with the skills, enrichment, and

learning opportunities that increase their chances of future success in school. Children from all backgrounds who receive high-quality early care and education score higher on tests of both cognitive and social skills in their early school years. Low income children who receive high-quality early care and education score significantly higher on tests of reading and math from their primary years through middle adolescence. These high-quality early care and education services can be both classroom, center-based, or home-based programs. Therefore, the General Assembly finds that the state should provide assistance to educationally deprived young children by funding successful and innovative programs that are designed to increase the learning of these children and provide for their optimal development.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2003, No. 1332, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Program, 26 U. Ark. Little Rock L. Rev. Legislation, 2003 Arkansas General Assembly, Education Law, Better Chance 390.

6-45-103. Definitions.

As used in this chapter:

(1) “Appropriate early childhood program” means a developmentally appropriate program for young children, birth through five (5) years of age, approved by the Department of Education as complying with the regulatory guidelines of the early childhood state accreditation by the Department of Human Services and Arkansas Better Chance Core Quality Approval Standards of the Department of Education to be issued by the Department of Education pursuant to this chapter;

(2) “Arkansas Better Chance for School Success” means a developmentally appropriate early care and education program for children three (3) and four (4) years of age created under § 6-45-105(a)(1)(B);

(3) “Arkansas Early Childhood Commission” or “commission” means an eighteen-member advisory body appointed by the Governor to perform certain duties and responsibilities relating to the development, expansion, and coordination of early childhood programs, including, but not limited to, serving as the advisory body to the Department of Education on early childhood program issues;

(4) “Arkansas HIPPY Advisory Board” means a citizen board appointed through the Home Instruction for Parents of Preschool Youngsters (HIPPY) Regional Technical Assistance and Training Center to develop public awareness, to promote program expansion, to encourage local development of the Home Instruction for Parents of Preschool Youngsters, and to provide consultation and guidance to the center; and

(5) “Department” means the Department of Education or its authorized agents.

History. Acts 1991, No. 212, § 1; 1991, No. 1222, § 3; 2003, No. 1105, § 1; 2003, No. 216, § 1; 1997, No. 1132, § 36; 1999, No. 1332, § 2.

6-45-104. Construction.

(a)(1) Except as required under subdivision (a)(2) of this section, this chapter shall not require any school district to participate.

(2) A local school is required to work with the Department of Education and its local community to establish, promote, and assist in the development of a program under the Arkansas Better Chance for School Success Program to serve all children in the school as provided in § 6-45-108, if:

(A) The school has had seventy-five percent (75%) or more students scoring below proficiency on the primary benchmark exams or other exams designated by the department in the preceding two (2) school years; or

(B) The school has been designated by the department as being in school improvement status under § 6-15-425 or is located in a school district in academic distress.

(b) Furthermore, nothing in this chapter shall require parents or legal guardians to enroll their children under five (5) years of age in any program established pursuant to this chapter.

History. Acts 1991, No. 212, § 2; 1991, No. 1332, § 3; 2003 (2nd Ex. Sess.), No. 216, § 2; 1997, No. 1132, § 37; 2003, 49, § 1.

6-45-105. Establishment of the Arkansas Better Chance Program.

(a)(1)(A) The Department of Education shall establish the Arkansas Better Chance Program to assist in the establishment and funding of the appropriate early childhood programs for children from birth through five (5) years of age.

(B) Within the Arkansas Better Chance Program there is established the Arkansas Better Chance for School Success Program for providing appropriate early care and education programs for children three (3) years of age and four (4) years of age as identified under § 6-45-108(a).

(2)(A) Beginning with the 1991-1992 school year, the department shall award grants or contracts to appropriate early childhood programs selected by the department in accordance with specified programmatic standards.

(B)(i) These standards will be developed by the department, with the advice and assistance of the Arkansas Early Childhood Commission.

(ii) Standards for funding the Home Instruction Program for Preschool Youngsters will be developed in conjunction with the Arkansas HIPPY Advisory Board.

(C) The Home Instruction Program for Preschool Youngsters Regional Technical Assistance and Training Center shall be defined and

funded as an integral part of the Home Instruction Program for Preschool Youngsters to provide necessary training, technical assistance, and program support to program sites in Arkansas.

(b) The programmatic standards and other rules and regulations necessary for the implementation of the Arkansas Better Chance Program shall be adopted by the State Board of Education in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1) The department is hereby authorized to expend a maximum of two percent (2%) of available funds to administer the program and to monitor program grantees to ensure compliance with programmatic standards.

(2) The department may contract with the Division of Child Care and Early Childhood Education to administer the program.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1993, No. 923, § 1; 1997, No. 1132, § 38; 2003, No. 1332, § 4.

A.C.R.C. Notes. Acts 1997, No. 1132, § 41, provided: "That part of the General Education Division of the Department of Education pertaining to operations of the Early Childhood Commission, including

only the two percent (2%) administrative component of the Better Chance Program, is hereby transferred by a Type 2 transfer as provided in § 25-2-105 to the Department of Human Services, Division of Child Care and Early Childhood Education."

6-45-106. Application process — Allocation of funding.

(a)(1)(A) Any early childhood program accredited and quality approved by the Department of Human Services according to standards approved by the Department of Education may apply for funding, regardless of the sponsorship of the program. Local school districts may apply for funding to operate early childhood programs, not including public school kindergarten, but an appropriate early childhood program need not be affiliated with a school district in order to receive funding.

(B) All applications submitted by sectarian or sectarian-affiliated programs must first be reviewed to assure that any approval of funding will not result in a violation of the First Amendment to the United States Constitution.

(2)(A) A local-to-state match will be required in the ratio of forty to sixty (40:60), except that the Division of Child Care and Early Childhood Education may waive the requirement of the local-to-state match if:

(i) The school is in a district that has been designated by the Department of Education as being in academic distress; and

(ii) The division determines that the school is unable to provide the local-to-state match requirement after the division has assisted the school in identifying potential funding sources to provide local-to-state match requirements.

(B) The local match may consist of cash or appropriate in-kind services.

(b) In order to be considered, an application must contain all information required by the Department of Education's regulatory guidelines.

(c)(1) In allocating funding for the Arkansas Better Chance for School Success Program, priority consideration shall be given to:

(A) Schools that have seventy-five percent (75%) or more students scoring below proficiency on the primary benchmark exams or other exams designated by the Department of Education in the preceding two (2) school years; and

(B) Schools that have been designated by the Department of Education as being in school improvement status under § 6-15-425 or are located in a school district in academic distress.

(2) The goal of the state is to make available an Arkansas Better Chance for School Success Program for an additional one-fifth ($\frac{1}{5}$) of the qualifying students each year over a period of five (5) years, at which time programs shall be available in all schools statewide.

(3) The priority considerations for funding under the Arkansas Better Chance for School Success Program shall not affect the funding of the Arkansas Better Chance Program and shall not create any priority for funding the Arkansas Better Chance for School Success Program over the Arkansas Better Chance Program.

(4) Any programs given priority consideration under this subsection shall continue to receive priority funding as necessary to continue an established program even though the criteria under subdivision (c)(1) of this section no longer exist for that school district.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1997, No. 1132, § 39; 2001, No. 1183, § 1; 2003, No. 1105, § 5[2]; 2003, No. 1332, § 5; 2003 (2nd Ex. Sess.), No. 49, § 2; 2005, No. 1447, § 1.

A.C.R.C. Notes. Acts 2003, No. 1105, did not contain a Section 2, 3, or 4.

Acts 2003, No. 1105, § 5, provided: "Any licensed early childhood program with early childhood accreditation by the Department of Human Services and meeting the Arkansas Better Chance Core Quality

Approval Standards of the Department of Education may apply for funding regardless of the sponsorship of the program. Local school districts may apply for funding to operate early childhood programs, not including public school kindergarten, but an appropriate early childhood program need not be affiliated with a school district in order to receive funding."

Amendments. The 2005 amendment added (c)(4).

6-45-107. Publication of funding availability and program criteria.

The Department of Education shall annually provide notification to school districts and to other appropriate providers of the availability of funds under the Arkansas Better Chance Program and shall include in such notification the programmatic standards and criteria for determination of eligibility for funding under the program.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1.

6-45-108. Criteria for determining need.

(a)(1) All children three (3) years of age and four (4) years of age who are members of a family with a gross family income not exceeding two hundred percent (200%) of the federal poverty guidelines are eligible to attend an Arkansas Better Chance for School Success Program if there is a program available in the school district where the child resides and if there is available space for the child to attend the program.

(2) The Department of Education and the Division of Child Care and Early Childhood Education may develop a fee schedule and establish eligibility based on family income for children who are not eligible under subdivision (a)(1) of this section, but priority enrollment shall be allowed to children eligible under subdivision (a)(1) of this section.

(b) The department and the division shall review various criteria for identifying and targeting the areas of the state with the greatest need for early childhood programs.

(c) The State Board of Education, with the advice and assistance of the division, shall adopt the appropriate criteria for identifying Arkansas children with the greatest need to participate in Arkansas Better Chance-funded early childhood programs.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2003, No. 1332, § 6; 2003 (2nd Ex. Sess.), No. 49, § 3.

6-45-109. Certification by the Division of Child Care and Early Childhood Education.

(a) The Division of Child Care and Early Childhood Education shall certify child care facilities which have an appropriate early childhood program, as defined in § 6-45-103. Certification numbers shall be issued to those child care facilities that meet the applicable qualifications.

(b) Upon certification of the child care facilities, the division shall provide a listing of all certified facilities and their certification numbers to the Director of the Department of Finance and Administration for the purpose of the income tax credit or refund provided for in §§ 26-51-502 and 26-51-507.

History. Acts 1993, No. 1268, § 2; 1995, No. 850, § 1; 1997, No. 1132, § 40; 2001, No. 413, § 1. construction of employer operated child care facilities, §§ 26-52-516 and 26-53-132.

Cross References. Tax refunds for

6-45-110. Assessment.

(a)(1) The Division of Child Care and Early Childhood Education shall be responsible for assessment of students enrolled in the Arkansas Better Chance for School Success Program.

(2)(A) Assessment shall begin upon enrollment in the program and

continue until each child completes the fourth grade, so long as the child is enrolled in a public school in the state.

(B) The division and the Department of Education shall work cooperatively to ensure that the assessments are conducted as required by this section.

(b)(1) Children in the program shall be assessed annually to provide an indication of each child's progress towards school readiness.

(2) This annual assessment shall be directly aligned with the Arkansas Early Childhood Education Framework/Early Learning Guidelines and shall serve to promote curriculum development and instructional methods that assist in achievement of the intended outcome of readiness for kindergarten.

(3)(A) The assessment shall address a child's strengths, progress, and needs and shall serve as a central part of an effective early childhood program.

(B) The assessment will be used in making sound decisions about teaching and learning and to identify areas of concern that may require focused intervention.

(c)(1) A comprehensive research study shall be implemented to evaluate the program to ensure that the program goals and intended child outcomes are being achieved.

(2) The study shall be designed to use sound research-based evidence to determine whether the programs meet the expected standards of quality and whether they are achieving the intended child outcomes.

(3) This research shall include children entering the program at ages three (3) and four (4) years and follow the children through completion of the fourth grade benchmark exams.

(d) Research results will be provided annually to the Governor, the Senate Interim Committee on Education, and the House Interim Committee on Education.

History. Acts 2003 (2nd Ex. Sess.), No. 49, § 4.

CHAPTER 46

ARKANSAS HIGH TECHNOLOGY TRAINING CENTER

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. SITE AND FUNDING.
3. ADMINISTRATION.
4. PERSONNEL.
5. OPERATIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-46-101. Creation.
- 6-46-102. Purpose.

6-46-101. Creation.

(a) There is hereby established the Arkansas High Technology Training Center, hereinafter “center”, which shall be a center offering courses in aerospace technology and other high technologies to secondary education students from throughout the State of Arkansas.

(b) The center shall also offer high technology training to specific work forces in coordination with the Arkansas Economic Development Council in order to assist the council in fulfilling its obligations and commitments in attracting high-technology industry to the state.

(c) The center shall also offer courses to adults to enhance their competencies and capabilities in high-technology careers in coordination with the Adult Education Section of the Department of Workforce Education.

History. Acts 1993, No. 839, § 1; 1997, No. 540, § 1; 1999, No. 1323, § 27.

6-46-102. Purpose.

(a) The purpose of the Arkansas High Technology Training Center shall be to educate a broad cross section of students and adults in high technology skills, theory, and careers and to develop a curriculum and materials to improve instruction in high technology for all students and adults in the state.

(b) The center’s curriculum, faculty, and admissions policy shall reflect such purposes.

History. Acts 1993, No. 839, § 1.

SUBCHAPTER 2 — SITE AND FUNDING**SECTION.**

6-46-201. Location.

6-46-202. Funding.

SECTION.

6-46-203. Tuition and fees.

6-46-201. Location.

The Arkansas High Technology Training Center shall be located at the Little Rock National Airport in conjunction with the Aerospace Education Center and the Arkansas Museum of Aviation History.

History. Acts 1993, No. 839, § 2.

6-46-202. Funding.

The Arkansas High Technology Training Center shall be funded by moneys appropriated by the General Assembly for the operation of the center and by such grants, contributions, or donations that may be received by the Department of Workforce Education for the support of the center.

History. Acts 1993, No. 839, § 2.

6-46-203. Tuition and fees.

Attendees to the Arkansas High Technology Training Center may be required to pay tuition, fees, or room and board.

History. Acts 1993, No. 839, § 2.

SUBCHAPTER 3 — ADMINISTRATION

SECTION.

6-46-301. [Repealed.]

6-46-302. Rules and regulations — Administration generally.

SECTION.

6-46-303. Budget.

6-46-304. Training contracts.

6-46-301. [Repealed.]

Publisher's Notes. This section, concerning the advisory board of directors, was repealed by Acts 2001, No. 783, § 2. The section was derived from Acts 1993,

No. 839, § 3; 1997, No. 540, § 2. Acts 783, § 1 also provided that the advisory board of directors is "hereby abolished."

6-46-302. Rules and regulations — Administration generally.

(a) The Department of Workforce Education shall supervise the Arkansas High Technology Training Center and is hereby authorized and empowered to promulgate rules and regulations that may be necessary to carry out the provisions of this chapter.

(b) The department shall develop a plan for the structure, operation, and funding of the center.

History. Acts 1993, No. 839, §§ 4, 8.

6-46-303. Budget.

(a) The Department of Workforce Education shall prepare the biennial budget request for the Arkansas High Technology Training Center's operation that shall be submitted to the State Board of Workforce Education and Career Opportunities for inclusion in the biennial budget request of the department for funding programs from the Vocational Education Fund.

(b) The department is authorized and empowered to receive contributions, donations, gifts, bequests of money, other forms of financial assistance, and property, equipment, materials, or personnel, from persons, foundations, trust funds, corporations, organizations, and other sources, private or public, to be expended and utilized for the operation of the center.

History. Acts 1993, No. 839, §§ 4, 7.

A.C.R.C. Notes. The reference in this section to the Vocational Education Fund

may be a reference to the Department of Workforce Education Fund Account, § 19-5-304.

6-46-304. Training contracts.

The Department of Workforce Education may contract with private or public business enterprises or other government agencies to perform customized high technology training for the benefit of those contracting parties.

History. Acts 1993, No. 839, § 2.

SUBCHAPTER 4 — PERSONNEL**SECTION.**

6-46-401. Chief administrative officer.

6-46-402. Other employees.

6-46-401. Chief administrative officer.

The Director of the Department of Workforce Education shall employ an administrator for the Arkansas High Technology Training Center, who shall serve at the pleasure of the director. The administrator shall be the chief administrative officer of the center and shall administer the center in accordance with the policies established by the Department of Workforce Education.

History. Acts 1993, No. 839, § 5.

6-46-402. Other employees.

(a) The administrator and other personnel employed for the operation of the Arkansas High Technology Training Center shall be employees of the State of Arkansas.

(b) Faculty members and other personnel required for operation of the center shall be recommended for employment by the administrator and shall be employed by annual contract by the Department of Workforce Education.

(c) Teachers and administrators so employed shall be eligible for membership in the Arkansas Teacher Retirement System and earn credited service for such employment.

(d) Noneducational personnel employed by the department shall be eligible for membership in the Arkansas Public Employees' Retirement System and earn credited service for such employment.

History. Acts 1993, No. 839, § 5.

SUBCHAPTER 5 — OPERATIONS**SECTION.**

6-46-501. Technical assistance.

6-46-502. Operation contracts.

6-46-501. Technical assistance.

The Department of Workforce Education, the Department of Higher Education, the Arkansas Economic Development Council, and the Arkansas Science and Technology Authority shall provide technical assistance to the Arkansas High Technology Training Center.

History. Acts 1993, No. 839, § 6; 1997, No. 540, § 3.

6-46-502. Operation contracts.

The Department of Workforce Education shall also be authorized to contract with other agencies and private research centers as it may deem necessary to carry out its responsibilities for the operation of the Arkansas High Technology Training Center.

History. Acts 1993, No. 839, § 6; 1995, No. 1296, § 32.

CHAPTER 47

DISTANCE LEARNING

SUBCHAPTER.

1. DISTANCE LEARNING DEMONSTRATION PROJECT. [REPEALED.]
2. DISTANCE LEARNING COORDINATION.
3. DISTANCE LEARNING IMPLEMENTATION.
4. ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT.
5. DISTANCE LEARNING GRANTS.

Effective Dates. Acts 1995, No. 1240, § 9: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the effectiveness of this act on July 1, 1995, is essential to the successful establishment of a distance learning demonstration project in Arkansas high schools during the 1995-96 school

year and to the planning and efficiency of the state agencies and local school districts involved in the project. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1995."

SUBCHAPTER 1 — DISTANCE LEARNING DEMONSTRATION PROJECT

SECTION.

6-47-101 — 6-47-105. [Repealed.]

6-47-101 — 6-47-105. [Repealed.]

Publisher's Notes. This subchapter, the Arkansas Distance Learning Demonstration Project Act of 1995, was repealed

by Acts 2003, No. 1192, § 1. The subchapter was derived from the following sources:

6-47-101. Acts 1995, No. 1240, § 1.	6-47-104. Acts 1995, No. 1240, §§ 4, 5.
6-47-102. Acts 1995, No. 1240, § 2.	6-47-105. Acts 1995, No. 1240, § 4.
6-47-103. Acts 1995, No. 1240, § 3.	For present law, see § 6-47-401 et seq.

SUBCHAPTER 2 — DISTANCE LEARNING COORDINATION

SECTION.	Department of Higher Education — Cooperation, report, and implementation.
6-47-201. Administration in elementary schools.	
6-47-202. Administration in two-year colleges.	
6-47-203. Department of Education and	

6-47-201. Administration in elementary schools.

(a) The Department of Education shall oversee and coordinate the implementation of distance learning in elementary and secondary public schools in the state.

(b) The department shall promulgate rules and regulations establishing appropriate adult supervision.

(c) The elementary or secondary school may import courses from outside the state. However, the course curriculum shall be approved by the department prior to offering the courses through distance learning.

(d) The courses offered through distance learning shall include, but not be limited to:

(1) College preparatory courses, including, but not limited to, calculus, physics, Arkansas history, foreign languages, and computer science; and

(2) Technological courses, including, but not limited to, advanced math and science courses, advanced computer skills courses, and advanced courses in the arts.

(e) The department shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the education service cooperatives, and other state agencies involved in distance learning in implementing distance learning.

History. Acts 1999, No. 1083, § 1. schools in the state by August 1, 2000.

A.C.R.C. Notes. As enacted, subsection (a) of this section also provided: “Distance learning shall be available to one hundred (100) elementary and secondary public schools in the state by August 1, 2004.”

6-47-202. Administration in two-year colleges.

(a) The Department of Higher Education shall oversee and coordinate the implementation of distance learning in two-year colleges, four-year institutions of higher learning, and universities in the state.

(b) The Department of Workforce Education shall cooperate with the Department of Higher Education in implementing the provisions of this section.

History. Acts 1999, No. 1083, § 2.

6-47-203. Department of Education and Department of Higher Education — Cooperation, report, and implementation.

(a) The Department of Education and the Department of Higher Education shall work together to implement distance learning throughout the state.

(b) The Department of Education and the Department of Higher Education shall present a report to the House Interim Committee on Education and the Senate Interim Committee on Education by December 31, 1999, reporting the status and progress of distance learning in Arkansas.

(c) The Department of Education and the Department of Higher Education shall not be required to implement the provisions of this subchapter if funds are not made available.

History. Acts 1999, No. 1083, § 3.

SUBCHAPTER 3 — DISTANCE LEARNING IMPLEMENTATION

SECTION.

- 6-47-301. Intent.
- 6-47-302. Implementation in elementary and secondary schools — Courses offered.
- 6-47-303. Coordination at institutions of higher education.
- 6-47-304. Department of Workforce Edu-

SECTION.

- cation to cooperate with Department of Education and Department of Higher Education.
- 6-47-305. Distance Learning Coordinating Council.

Effective Dates. Acts 2005, No. 1425, § 3: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in the State of Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of school facilities and recommend methods for bringing those facilities into conformity with the court’s constitutional expectations; that one of the recommendations of the joint committee is to establish a new advisory body to evaluate distance learning capabilities in the public schools; that the establishment of the Distance Learning Coordinating Council satisfies the recommendations of the joint committee; and that in order to promote the state’s efforts to satisfy constitutional expectations with

regard to an adequate education, the new coordinating council needs to begin work with the fiscal year beginning July, 2005. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005.”
Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that dissolving the offices at the beginning of the state’s fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

6-47-301. Intent.

It is the intent of the General Assembly that the planning and implementation of distance learning should create opportunities for innovation in education, transform institutional behavior, and prepare students for participation in the information age economy.

History. Acts 1999, No. 1298, § 1.

**6-47-302. Implementation in elementary and secondary schools
— Courses offered.**

(a) The Department of Education shall plan for the statewide implementation of distance learning in elementary and secondary public schools in the state.

(b) The elementary or secondary school may utilize courses from outside the state. However, the course curriculum shall be reviewed by the Department of Education or the Department of Workforce Education prior to offering the courses through distance learning.

(c) The courses offered through distance learning may include college preparatory courses, advanced mathematics and science courses, and technological courses.

(d) The Department of Education shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the education service cooperatives, the Arkansas State Library, and other state agencies involved in distance learning.

History. Acts 1999, No. 1298, § 2.

6-47-303. Coordination at institutions of higher education.

The Department of Higher Education shall coordinate the implementation of distance learning at the state's public institutions of higher education.

History. Acts 1999, No. 1298, § 3.

**6-47-304. Department of Workforce Education to cooperate
with Department of Education and Department of
Higher Education.**

The Department of Workforce Education shall cooperate with the Department of Education and the Department of Higher Education to implement distance learning throughout the state.

History. Acts 1999, No. 1298, § 4.

6-47-305. Distance Learning Coordinating Council.

(a) There is created an advisory body to the Department of Education to be known as the "Distance Learning Coordinating Council".

(b) The purpose of the coordinating council is to evaluate distance learning activities for kindergarten through grade twelve (K-12) education across the State of Arkansas and to determine whether distance learning activities are being fully utilized through a collaborative process that maximizes the utilization of the state's technical and educational resources.

(c) The coordinating council shall consist of the following members:

(1) One (1) member who is an employee of the Department of Education appointed by the Commissioner of Education;

(2) One (1) member who is an employee of the Arkansas Educational Television Network appointed by the Director of the Educational Television Division of the Department of Education;

(3) One (1) member who is an employee of the Arkansas School for Mathematics, Sciences, and the Arts appointed by the director of the Arkansas School for Mathematics, Sciences, and the Arts;

(4) One (1) member who is an employee of the Office of Information Technology appointed by the Director of the Office of Information Technology;

(5) One (1) member who is an employee of the Department of Information Services appointed by the Director of the Department of Information Services;

(6) One (1) member who is an employee of the Arkansas Science and Technology Authority appointed by the President of the Arkansas Science and Technology Authority;

(7) One (1) member who is an employee of the Department of Workforce Education appointed by the Director of the Department of Workforce Education;

(8) One (1) member who is employed by the Department of Higher Education appointed by the Director of the Department of Higher Education;

(9) One (1) member who is an employee of the Arkansas State Library appointed by the State Librarian;

(10) One (1) member who is an employee of an education service cooperative appointed by the Governor from a list of three (3) names submitted by the State Board of Education;

(11) One (1) member who is actively engaged in distance learning activities for grades kindergarten through twelve (K-12) education appointed by the Governor from the state at large;

(12) Two (2) members who are employed by telecommunications companies that are members of the Arkansas Telecommunications Association and appointed as follows:

(A) One (1) member shall be employed by a telecommunications company with more than seventy-five thousand (75,000) access lines and shall be appointed by the Governor from a list of three (3) names submitted by the association; and

(B) One (1) member shall be employed by a telecommunications company with less than seventy-five thousand (75,000) access lines and shall be appointed by the Governor from a list of three (3) names submitted by the association; and

(13) Members added by the commissioner to the coordinating council to represent other entities that are associated with grades kindergarten through twelve (K-12) distance learning and that come into existence after September 1, 2005.

(d)(1) Members shall serve three-year terms and are eligible for reappointment.

(2) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the same manner as the original appointment.

(3) The members of the coordinating council shall meet and organize immediately after their appointment and shall elect a chair, a vice chair, and a secretary-treasurer from the membership of the coordinating council.

(4) The coordinating council shall meet at least quarterly.

(5) Staff support shall be provided by appropriate personnel from the Department of Education, the Department of Workforce Education, the Department of Higher Education, the Division of Public School Academic Facilities and Transportation, the Division of Public School Accountability, and the state's public institutions of higher education with the assistance of any appropriate staff of the other agencies whose directors serve on the coordinating council.

(6) Nonstate employee members shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

(e) The coordinating council shall make recommendations at least annually to the Department of Education, the Division of Public School Academic Facilities and Transportation, the Division of Public School Accountability, the House Committee on Education, and the Senate Committee on Education with regard to the following:

(1) Distance learning standards and rules;

(2) Online distance learning curriculum;

(3) Supplemental distance learning course material;

(4) Coordination of distance learning services;

(5) Methods for fostering collaborative processes by which distance learning content can be shared more effectively with and delivered to public schools;

(6) Strategies for reducing the occurrences of isolated distance learning activities;

(7) Options for spreading distance learning costs and increasing the value of shared distance learning services; and

(8) Improving utilization of distance learning resources.

History. Acts 1999, No. 1298, § 5; 2005, No. 1425, § 1; 2007, No. 751, § 3.

Amendments. The 2005 amendment rewrote this section.

The 2007 amendment, in (d)(5), deleted "and the Office of Information Technology" following "education" and made related changes.

SUBCHAPTER 4 — ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT

SECTION.

6-47-401. Title.

6-47-402. Purpose.

6-47-403. Definitions.

6-47-404. Establishment and implemen-
tation.

SECTION.

6-47-405. Rules and regulations.

6-47-406. Public school district and char-
ter school distance learn-
ing program.**6-47-401. Title.**

This subchapter shall be known and may be cited as the “Arkansas Distance Learning Development Project Act of 2003”.

History. Acts 2003, No. 1192, § 2.

6-47-402. Purpose.

(a) The purpose of this subchapter is to provide for the establishment, organization, and administration of a distance learning program designed to improve course offerings available to students throughout the state.

(b) The program will demonstrate the efficiency of using distance learning to enhance elementary and secondary education and prepare students for greater success in a postsecondary educational environment.

History. Acts 2003, No. 1192, § 2.

6-47-403. Definitions.

As used in this subchapter:

(1) “Board” means the State Board of Education;

(2) “Commissioner” means the Commissioner of Education;

(3) “Department” means the Department of Education;

(4) “Distance learning” means an interactive telecommunications system that utilizes information technology, audio, video, and similar technological elements, is compatible with other distance learning networks, and is used for the purpose of enhancing instructional opportunities in Arkansas public schools;

(5) “Infrastructure” means an interlinked system of wires, cables, fiber optics, or other wireline or wireless communications media;

(6) “Program” means the Arkansas Distance Learning Development Program; and

(7) “Public telecommunications” means the facilities used in providing telecommunication services to the public, including, but not limited to, facilities owned and operated by public utilities.

History. Acts 2003, No. 1192, § 2.

6-47-404. Establishment and implementation.

(a) There is established the Arkansas Distance Learning Development Program, which shall be conducted by the Department of Education and administered through the Commissioner of Education.

(b) The program shall have four (4) focus areas:

(1) To help alleviate the increasing shortage of available qualified teachers;

(2) To provide additional course-scheduling opportunities for students currently forced to choose between courses that are scheduled infrequently or concurrently;

(3) To provide an opportunity for students to access an enriched curriculum and additional courses beyond those mandated by the Standards for Accreditation of Arkansas Public Schools and School Districts; and

(4) To develop and make available online professional development and instructional resources for all teachers and administrators.

(c)(1) The funding necessary to carry out the provisions of this subchapter may be derived from donations, grants, or legislative appropriation.

(2) The commissioner may solicit and receive donations and grants for the purpose of administering the program.

(3)(A) All donations, grants, and appropriations received shall be accounted for by the department.

(B) Fund balances may be carried over from one year to the next to continue the program.

(d) The commissioner shall review the implementation of this program annually and make recommendations to the State Board of Education regarding the number and amount of awards to ensure that the purpose of the program is achieved.

(e) The commissioner may enter into contracts or provide grants to local education agencies, education service cooperatives, or other entities for personnel, facilities, and services necessary to implement this program.

(f) Students taking courses through this program shall be considered entitled to any public education credits and grades assigned through this program, and those credits and grades shall be accepted by all public schools in the State of Arkansas.

(g) Courses offered or taught through the program may be offered or taught to public school students, private school students, and home-schooled students in the State of Arkansas.

(h) A home-schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open-enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.

History. Acts 2003, No. 1192, § 2; 2005, No. 2121, § 18; 2005, No. 2325, § 1; 2007, No. 1573, § 40.

Amendments. The 2005 amendment by No. 2121 substituted “state foundation funding” for “base local revenue” and deleted “for each student” following “per student” in (c)(1)(B).

The 2005 amendment by No. 2325 sub-

stituted “program” for “project” throughout this section; substituted “concurrently” for “currently” in (b)(2); substituted “state foundation funding” for “base local revenue” in (c)(1)(B); and added (g) and (h).

The 2007 amendment deleted former (c)(1)(B) and made related changes.

6-47-405. Rules and regulations.

The State Board of Education shall promulgate rules and regulations necessary for the implementation of this subchapter.

History. Acts 2003, No. 1192, § 2.

6-47-406. Public school district and charter school distance learning program.

(a) Except as provided in subsection (b) of this section, a public school district or open-enrollment public charter school may offer and teach distance learning courses to a student enrolled in a private school or a home school if:

(1) The student resides in the public school district where the public school or open-enrollment public charter school is located;

(2) The student agrees to physically attend the public school or open-enrollment public charter school for purposes of taking a distance learning course taught or offered through the public school or charter school; and

(3) The public school or open-enrollment public charter school teaches or offers a distance learning course that has been approved by and otherwise complies with Department of Education rules and standards governing distance learning courses.

(b) The State Board of Education shall adopt rules to allow the Commissioner of Education to waive the requirements under subdivisions (a)(1) and (2) of this section on an individual basis for a student who is unable to attend due to conditions that prevent the child from physically attending a public school or an open-enrollment public charter school.

(c)(1) A public school district or open-enrollment public charter school that teaches or offers a distance learning course to one (1) or more home-schooled or private school students who meet the conditions of subsection (a) or subsection (b) of this section shall be entitled to an amount equal to one-sixth ($\frac{1}{6}$) of the state foundation funding amount for each private school student or home-schooled student.

(2) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership per student regardless of the number of distance learning

courses received by a particular home-schooled or private school student.

(d) A home-schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open-enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.

(e) This section shall not be construed to entitle a home school student or private school student to participate in, enroll in, or attend any other courses, activities, or services provided by a public school district or an open-enrollment public charter school.

(f) Any public school district or public charter school seeking to offer or teach distance learning courses to public school students, home-schooled students, or private school students must first have those course offerings approved by the Arkansas Distance Learning Development Program of the Department of Education.

(g) No public school district or open-enrollment public charter school shall establish or provide a virtual school or distance learning course except as allowed by this section.

History. Acts 2005, No. 2325, § 2.

SUBCHAPTER 5 — DISTANCE LEARNING GRANTS

SECTION.

6-47-501. Purpose.

6-47-502. Distance learning grants.

SECTION.

6-47-503. Distance learning consortiums.

6-47-504. Effect on teachers.

Effective Dates. Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that

dissolving the offices at the beginning of the state’s fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

6-47-501. Purpose.

(a) It is the purpose of this subchapter to make available distance learning in every school district in the state.

(b) The primary purpose of providing distance learning technologies is to assist school districts in receiving advanced high school courses, advanced placement courses, enriched course content, or other academic courses not otherwise available in the school district.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1.

6-47-502. Distance learning grants.

(a)(1) The Department of Education shall develop grant standards and provide grants to education service cooperatives for acquiring equipment and receiving telecommunications services necessary for each school district to have distance learning availability.

(2) The grants shall be used to assist school districts that do not have distance learning capabilities and to assist school districts in upgrading existing distance learning capabilities.

(3) The grants shall also be used by the education service cooperatives to provide technical assistance to the school districts in implementing and maintaining distance learning as an educational tool.

(b)(1) The Department of Education shall:

(A) Establish, by rule, standards for eligible equipment and telecommunications services; and

(B) Oversee the efficient operation and use of the system pursuant to law.

(2) Each school district shall have adequate connectivity to provide quality of service for distance learning.

(3) The distance learning technical protocol or protocols shall be in alignment with technical standards set by the Director of the Department of Information Systems.

(c) Education service cooperatives and school districts shall coordinate with the department to seek to obtain the benefits of the Federal Communications Commission's E-rate discount program.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1; 2007, No. 617, §§ 32, 33; 2007, No. 751, § 4.

Amendments. The 2007 amendment by No. 617 inserted "service" preceding "cooperatives" in (a)(1), (a)(3), and (c).

The 2007 amendment by No. 751 substituted "Director of the Department of Information Systems" for "office of the Executive Chief Information Officer" in (b)(3).

6-47-503. Distance learning consortiums.

School districts shall form collaborative efforts with other schools or education service cooperatives or both other schools and education service cooperatives that share common educational needs in order to ensure that the state maximizes distance learning services by distributing shared course content.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1; 2007, No. 617, § 34.

Amendments. The 2007 amendment

inserted "education service" preceding "cooperatives" twice.

6-47-504. Effect on teachers.

A teacher that is under contract in a school district in the respective field of study that is being offered by distance learning pursuant to this subchapter shall not be terminated by the school district because of the availability of distance learning courses.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1.

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